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FTCNewsLine is an online quarterly newsletter of the **FAIR TRADING COMMISSION** that contains information on competition matters dealt with by the Fair Trading Commission as well as other competition agencies from around the world. The aim is to provide readers with insights into some of the matters that are prosecuted in other jurisdictions; and assist businesses and consumers in better identifying issues that may pose competition concerns.

Competition legislation is specific to each jurisdiction and activities prohibited in one jurisdiction are not necessarily prohibited in other jurisdictions. For information on the prohibitions under Jamaica's competition legislation, the **FAIR COMPETITION ACT (FCA)**, please visit our website at www.jftc.gov.jm.

In this Issue, we feature matters arising during the period July 1, 2023, to September 30, 2023.

FTC closes its investigation into claim of misleading advertising by castor oil supplier



The FTC closed its investigation under section 37 of the Fair Competition Act (FCA) into a misleading advertising claim on the part of the JBC Distributors Inc., which distributes the Sunny Isle brand of castor oil. JBC Distributors Inc. has been labelling its Sunny Isle brand of castor oil as “the Only Jamaican Black Castor Oil Approved for Export by the Jamaican Government”. It was determined that the statement is false as the Sunny Isle brand of black castor oil is not the only Jamaican black castor oil that is approved for export.

During the investigation, the FTC concluded that it does not have jurisdiction in the matter as JBC Distributors Inc. is neither registered nor resident in Jamaica. Notwithstanding, not having jurisdiction, the FTC made several requests to JBC Distributors Inc. to discontinue labelling its castor oil as “the Only Jamaican Black Castor Oil Approved for Export by the Jamaican Government”.

JBC Distributors Inc. has now removed the misleading statement from its labels and website.

FTC completes preliminary Competition Assessment of the Jamaica Coffee Export Market

The FTC has taken the initiative to assess competitive barriers in Jamaica's major export markets, given the Ministry of Industry, Investment & Commerce's push to increase Jamaican exports. The FTC commenced its first export market assessment on the Jamaican coffee export market - with an objective to identify barriers to expansion and trade impediments in the Market. The assessment examines Jamaica's regulatory framework, the framework of several coffee

exporting countries, coffee imports requirements of the major coffee importing countries, and possible ways to address issues that may be limiting increased exports.



The assessment is presently in the stakeholder consultation stage, with the FTC canvassing stakeholders' views on the critical issues that have been identified. Issues include: (a) liberalizing the license requirements for the export of lower grades of coffee; (b) lowering the license fees for the cultivation and dealing of Jamaica Blue Mountain and Jamaica High Mountain Supreme trademarked coffee;

(c) deepening international relations to combat brand infringement and to access greater exposure to international markets through the International Coffee Organization. The stakeholders that have been approached for comments include Jamaica Agricultural Commodities Regulatory Authority (JACRA), Jamaica Promotions Corporation (JAMPRO), the Ministry of Foreign Affairs and Foreign Trade (MFAFT), The Ministry of Agriculture and Fisheries (MAF), Jamaica Coffee Exporters Association, and several market participants. The FTC is also accepting feedback from interested parties not mentioned above. A copy of the preliminary report may be requested at ftc@cwjamaica.com.

Stakeholder engagement for competition assessment of the Port and Shipping Industry



The FTC is assessing, from a competition perspective, the legislative framework governing the port and shipping industry in Jamaica. The purpose of the assessment is to determine the regulatory options that are most likely to allow Jamaica to extract a greater economic surplus from international trade. Having completed the preliminary assessment and findings, stakeholders are now being engaged with an aim of deepening understanding of the critical issues which have been identified in the preliminary report. The

Jamaica Special Economic Zone Authority, Port Authority of Jamaica, Trade Board Limited, Kingston Wharves Limited and Maritime Authority of Jamaica have responded to the FTC's request for comments.

The comments from the stakeholders will be used to inform the FTC's Final Report, specifically in designing policy prescriptions for enhancing competition in the industry.

FTC collaborates with the MFPS for the GOJ Public Procurement Summer Training Series



Mr Desroy Reid - Competition Analyst

In July and August, the FTC presented to almost 190 public sector procurement officers in the Middlesex and Cornwall Counties on Collusive Tendering. Included in the presentation were discussions on (a) the difference between collusion and corruption in the procurement process; (b) the harm caused by collusive tendering; (c) the role of competition law in deterring collusive tendering; (d) red flags that indicate collusive tendering; and (e) the provision of the Fair Competition Act (FCA) covering bid rigging.

Bid rigging is prohibited under section 36 of the FCA. Specifically, the section makes it unlawful for two or more persons to enter into an agreement whereby (a) one or more of them agree of undertake not to submit a bid in response to a call or request for bids or tenders; or (b) as bidders or tenderers they submit, in response to a call or request, bids or tenders that

are arrived at by agreement between or among themselves.

The presentation included an interactive hypothetical case exercise. Mr. Desroy Reid, Competition Analyst, led the presentation, supported by Ms. Ann-Marie Grant, General Manager.

The FTC participates in the MIIC/IDB MSME Business Roadshow

The FTC participated in the first of four stops of the MSME Business Roadshow, which was held in Mandeville, Manchester, on August 10. The roadshow is a collaborative effort of the Ministry of Industry, Investment and Commerce and the Inter-American Development Bank.



FTC senior staff at the roadshow engaged entrepreneurs with various business interests, such as farming, agri-processing, fertilizer, herbal products, and wig manufacturing.

Noting the focus of the roadshow, the information disseminated was centred around the benefits of competitive markets to the growth of the micro, small and medium-sized enterprises (MSME) sector. These include market access for new products, inputs at competitive prices, and the ability of MSMEs to develop new and improved products and services, and to expand locally and globally.

Anti-competitive practices such as abuse of dominance, exclusive dealing and market sharing tend to foreclose markets to new players and to remove existing players from the market. Enforcing the Fair Competition Act effectively and advocating for pro-competitive policies and legislation are the core functions of the FTC in ensuring a level playing field for all businesses to participate in the Jamaican economy.

During the MSME Business Roadshow the FTC provided valuable information to entrepreneurs about how to recognize anti-competitive practices. The FTC also received information on sectors that may exhibit hindrances to effective competition. The other three roadshows are scheduled for October 26 in Montego Bay, November 1 in St. Ann, and November 21 in Kingston.

The FTC recognizes 30 years of competition law enforcement in Jamaica



September 2023 marked 30 years since the establishment of the Fair Trading Commission (FTC). To celebrate this significant milestone, several activities were planned over the months September to December.

The September activities undertaken include a church service at the Providence Methodist Church, a Luncheon and Long Service Awards Ceremony at the Jamaica Pegasus Hotel, and distributing FTC 30th Anniversary branded memorabilia at outreach events.

Senator Aubyn Hill, Minister of Industry Investment & Commerce (MIIC), and

Mr. Donovan White, Chairman of the FTC attended both events. Also in attendance at the church service and/or the luncheon were Dr. Derrick McKoy, Dr. Peter-John Gordon, Mr. Christopher Samuda and Amb. Aloun N'dombet Assamba, past Chairpersons of the FTC; Mrs. Donna Parchment-Brown and Mr. Emile Leiba, past Commissioners; and Amb. Stewart Stephenson, past Executive Director.

Representatives of several agencies of the MIIC attended the church service, and representatives of the MIIC attended the luncheon.

The FTC will also publish a pull-out in the Jamaica Observer highlighting the role of the FTC and its achievements over the years; and will organize an essay competition targeted at tertiary level students. Finally, the FTC will publish a special edition of its 28th issue of *Compete*, the Commission's annual magazine, to recognize the milestone achievement.



(L-R) Mr David Miller - Executive Director (FTC), Rev. Dr. George Mulrain - Superintendent Minister (Providence Methodist Church), Senator the Hon. Aubyn Hill - Minister of Industry Investment & Commerce (MIIC), Mr Donovan White – Chairman (FTC).



INTERNATIONAL COMPETITION NEWS

Competition Bureau Canada examined competitive intensity in the Canadian economy

In October, Competition Bureau Canada published the findings of their study [*Competition in Canada from 2000 to 2020: An Economy at a Crossroads*](#). The study provided an in-depth analysis of indicators of competition across the entire Canadian economy and found a decline in Canada's competitive intensity over the last two decades.

This novel study examined the concentration, industry dynamism, and profits and mark ups of individual industries in the economy. The decline in competitive intensity was observed in all indicators measured.

The main determinations of Competition Bureau Canada, based on the study, are:

- Concentration rose in the most concentrated industries, and the number of highly concentrated industries increased;
- The largest firms in industries are being less and less challenged by their smaller competitors;
- Fewer firms have entered industries overall, suggesting many industries have become less dynamic; and
- Profits and mark ups have both risen overall, and these increases were generally greater for firms already earning higher profits and mark ups.

The publication of this report will be followed by technical briefings to the media by Bureau officials.

Source: <https://www.canada.ca/en/competition-bureau> – October 19, 2023