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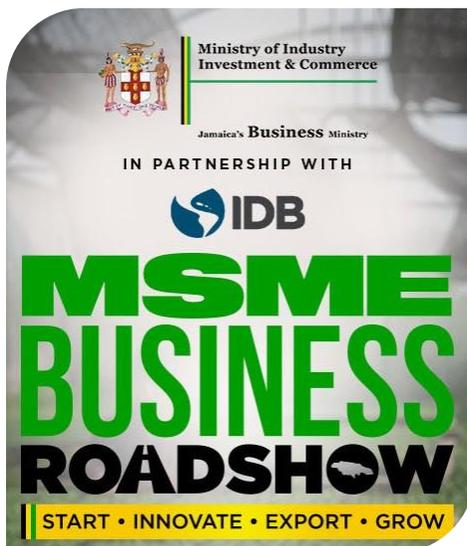


FTCNewsLine is an online quarterly newsletter of the **FAIR TRADING COMMISSION (FTC)** that contains information on competition matters dealt with by the Fair Trading Commission as well as other competition agencies from around the world. The aim is to provide readers with insights into some of the matters 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.iftc.gov.jm.

In this Issue, we feature matters arising during the period October 1, 2023, to December 31, 2023.

The FTC participated in the MIIC/IDB Business Roadshows



In October and November, the FTC actively participated in the Montego Bay, Ocho Rios & Kingston legs of the MIIC/IDB Business Roadshows, engaging with Micro, Small and Medium Enterprises (MSMEs) and disseminating information regarding the advantages of competitive markets for the growth of MSMEs. The Commission interacted with various small-scale farmers looking to venture into or expand their presence in agri-processing and exporting. Additionally, the FTC connected with manufacturers and distributors involved in herbal, beauty care, textile, clothing, scented candles, pastry products, arts and crafts, and used cars. The outreach extended to operators in sectors like quarrying, waste management, landscaping, and fertilizer businesses. Practitioners in dental and eye care, film production, as

well as businesses in the service industry such as insurance brokerage, consulting, air bnbs, spa care, and professional office services were also engaged.

The FTC completes preliminary competition assessment of the papaya export market

The FTC has taken the initiative to assess competitive barriers in Jamaica's export markets, given the Ministry of Industry, Investment & Commerce's push to increase Jamaican exports. The FTC commenced its export market assessment on the papaya export market - with an objective to identify barriers to entry and expansion. The assessment examines Jamaica's regulatory framework, the framework of several papaya exporting countries, import requirements of the major papaya importing countries, and possible ways to address issues restricting entry and/or expansion in these markets.



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: (i) identifying challenges with growing papaya locally; (ii) pinpointing players that have exited the market and their reason for doing so; (iii) determining whether Jamaica has the capacity to meet a larger demand for papaya. The Jamaica Manufacturers & Exporters Association (JMEA), Ministry of Agriculture and Fisheries (MOAF) and Rural Agricultural Development Authority (RADA) are amongst the stakeholders that have been approached for comments. The FTC is also accepting feedback from other interested parties. A copy of the preliminary report may be requested at ftc@cwjamaica.com.

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The FTC provides opinion to PetroJam on its Tiered Customer Incentive Scheme

Upon Petrojam's request, the FTC provided its opinion on Petrojam's proposed customer incentive scheme designed to increase Petrojam's sales of designated petroleum products in the face of increased competition from entities directly importing petroleum products for sale in Jamaica. The scheme offers discounts to all Petroleum Marketing Companies, reaching a tiered threshold based

on the volume of petroleum products sourced from Petrojam.

The scheme provides volume discounts (as opposed to a loyalty discount: percentage of the customer's requirements) which does not raise competition concerns. It, therefore, allows Petrojam to achieve greater efficiencies of scale, with customers benefiting from the cost-saving measures through discounted prices. The FTC concluded that the Petrojam's incentive scheme is unlikely to breach the FCA.

The FTC comments on guidelines on advertising of gambling-related products



Having reviewed the Betting, Gaming & Lotteries Commission's (BGLC's) Consultation Document for the Introduction of New Guidelines on Marketing and Advertising of Gambling and Gambling-Related Products, the FTC submitted three recommendations for information that should be incorporated into the new Guidelines:

- (a) Ensure that all information pertaining to the advertising and marketing of gambling and gambling products is displayed prominently and is easily identifiable and discernible.
- (b) Position material information in advertising or marketing communications prominently, making it easily visible and identifiable by the public, regardless of the medium.
- (c) Ensure that all advertisements and marketing communications regarding gambling and gambling products adhere to section 37 of the Fair Competition Act (FCA), which prohibits false or misleading advertising.

Additionally, to maintain consistency with the FCA, the FTC has proposed an amendment to section 22(4) of the Betting, Gaming and Lotteries Act. This proposed amendment specifically suggests removing the term "ethics" concerning the FTC and replacing it with "should not be in breach of any provisions of the FCA."

The FTC presents at the Land Surveyors Seminar "A Matter of Land"

The FTC, represented by Mr. Desroy Reid, Competition Analyst, Ms. Vennesa Hall, Legal Officer, and Executive Director David Miller, delivered presentations at the 4th annual seminar for land surveyors, trainees, and student surveyors. The presentation comprised two parts: the first was on the FTC's March 2022 Report titled "Competition Assessment of the Land Surveyors Act," and the second was titled "Pricing among Land Surveyors – A Competition Assessment." Forty-five practitioners attended the seminar.



Desroy Reid, Competition Analyst

The FTC's Report explored whether the Land Surveyors Act unduly restricted competition and assessed its potential impact on competition. The findings of the report indicated that the legislative framework hinders entry and expansion into the market for land surveyor services, diminishing the incentives for service providers to compete within a co-regulatory regime. The FTC proposed several recommendations to the Ministry of Economic Growth and Job Creation (MEGJC) aimed at fortifying competition in the market, with the staff providing an explanation of the report and the analysis supporting the recommendations.

The second presentation covered various topics related to the fundamentals of competition law, the FTC's role in pricing, the adverse effects of price fixing, and best practices concerning the role of trade associations.

The FTC participates in the annual International Competition Network (ICN) Conference

Ms. Ann-Marie Grant, the FTC's General Manager participated in the annual International Competition Network (ICN) Conference held in Barcelona, Spain, from October 18 to 20. Ms. Grant made presentations in two sessions. Firstly, in the session on measuring the effectiveness of competition authorities' activities, Ms. Grant provided an overview of the Jamaica Fair Trading Commission's (JFTC) involvement in competition advocacy and discussed the types of interventions for ex-ante assessments i.e. "spontaneous" vs. agency planned. She described strategies for undertaking those assessments, including human resources mobilization, data collection, stakeholder engagement, prioritization, and concluded with a discussion on Data-on-Demand strategies. This involves anticipating market studies, building relationships, and signing Memorandum of understanding (MOUs) with organizations that collect data on key sectors.



Ann-Marie Grant, General Manager, Jamaica Fair Trading Commission (second left) with colleagues from Barbados, Trinidad & Tobago, and the CARICOM Competition Commission

The session proved beneficial to the FTC's work concerning the impact assessment of proposed and implemented recommendations by the FTC to promote competition in the studied market.

In her presentation on the implementation of ICN Work Products, Ms. Grant described the FTC's experience in using the Market Studies Handbook, Recommended Practices for Merger Analyses and the Recommended Practices for Merger Notification and Review Procedures. For each Work Product, she focused on the FTC's stakeholder engagement strategy and the creation of an appropriate pre-merger notification framework for Jamaica.

The FTC's Executive Director interviewed in CCC Conversations

Mr. David Miller, the FTC's Executive Director, was a guest speaker in the CARICOM Competition Commission's (CCC) interview series to mark its 15th anniversary. The CCC Press Advisory stated:

"In the two-part episode, Mr. Miller delves into the advantages of having a national competition law and a national competition authority, shedding light on the positive impact it has had on the Jamaican economy. His extensive experience in spearheading the Jamaica Fair Trading Commission has provided him with valuable insights into the role of competition regulation in fostering economic growth and protecting consumer welfare.

Mr. Miller elaborates on the significance of fostering a harmonized and collaborative approach to competition regulation within the CARICOM region, promoting fair competition, and ensuring a level playing field for businesses across member states."



David Miller, Executive Director,
Jamaica Fair Trading Commission

Mr. Nestor Alfred, Commissioner at the CCC conducted the interview and stated, "Mr. David Miller's insights offer a unique perspective on the challenges faced by small national competition authorities and underscore the importance of our role as a regional competition authority within the Caribbean Single Market and Economy (CSME)."

Other featured speakers in the interview series were competition experts Dr. Eleanor M. Fox, Professor of the New York University School of Law, and Ms. Teresa Coelho Moreira, Head of the Competition and Consumer Policies Branch at the United Nations Conference on Trade and Development (UNCTAD). All interviews are posted on the CCC's website and LinkedIn and Facebook social media pages; and Mr. Miller's interview is posted on the FTC's website. The full interview is also available on the CCC's youtube channel.

The FTC participates in the inaugural Regional Youth Conference

The FTC participated in the inaugural Regional Youth Conference entitled: *The Importance of Competition and Consumer Laws and Policies to the CSME Regional Movement* by assisting in developing the content used to create a short video that debuted during the Conference. The conference was convened for secondary school students by the CCC, the CXC, and the Caribbean Association of Principals of Secondary Schools.



INTERNATIONAL COMPETITION NEWS

Competition Commission of India releases market study report that explored the dynamics of Competition in the Mining Sector

A study by the Competition Commission of India (CCI) has highlighted the potential for competition concerns in the iron ore market in India. The study, 'Market Study on Dynamics of Competition in the Mining Sector in India with a Focus on Iron Ore', noted that India is self-sufficient in iron ore production, and contributes 7 percent of the global production. A vertical integration analysis highlighted the strong interlinkage that exists between the iron ore and steel sectors of the country.

In addition, the study noted that allocation of captive mines to some players creates entry barriers in the iron ore and steel sector as entry and successful operation becomes costly for new firms. The differential pricing of iron ore for different end-users was likely to create competition concerns within the sector.

The market study emphasized the importance of monitoring the prices charged for surplus iron ore in the open market by captive mines to ensure that it does not result in high costs for the buyer firm, especially if the buyer competes with captive mine owned firms in the steel market.

The CCI's study called for the promotion of sustainable mining through regulations to gradually phase out 'dirty' technologies over time. It was noted that a well-defined regulatory framework should encourage the adoption of clean technology and provide incentives for the transformation of existing production processes into sustainable modes of mineral production. The study also recommended that:

- a) exports of iron ore be discouraged while simultaneously encouraging high value-added activities, including domestic production of steel, which would control prices.
- b) Ease of implementing regulations may be ensured to reduce the high cost of compliance.

The official report and press release can be found on the CCI's website.

Source: <https://www.cci.gov.in/antitrust/press-release/details/345>– December 29, 2023