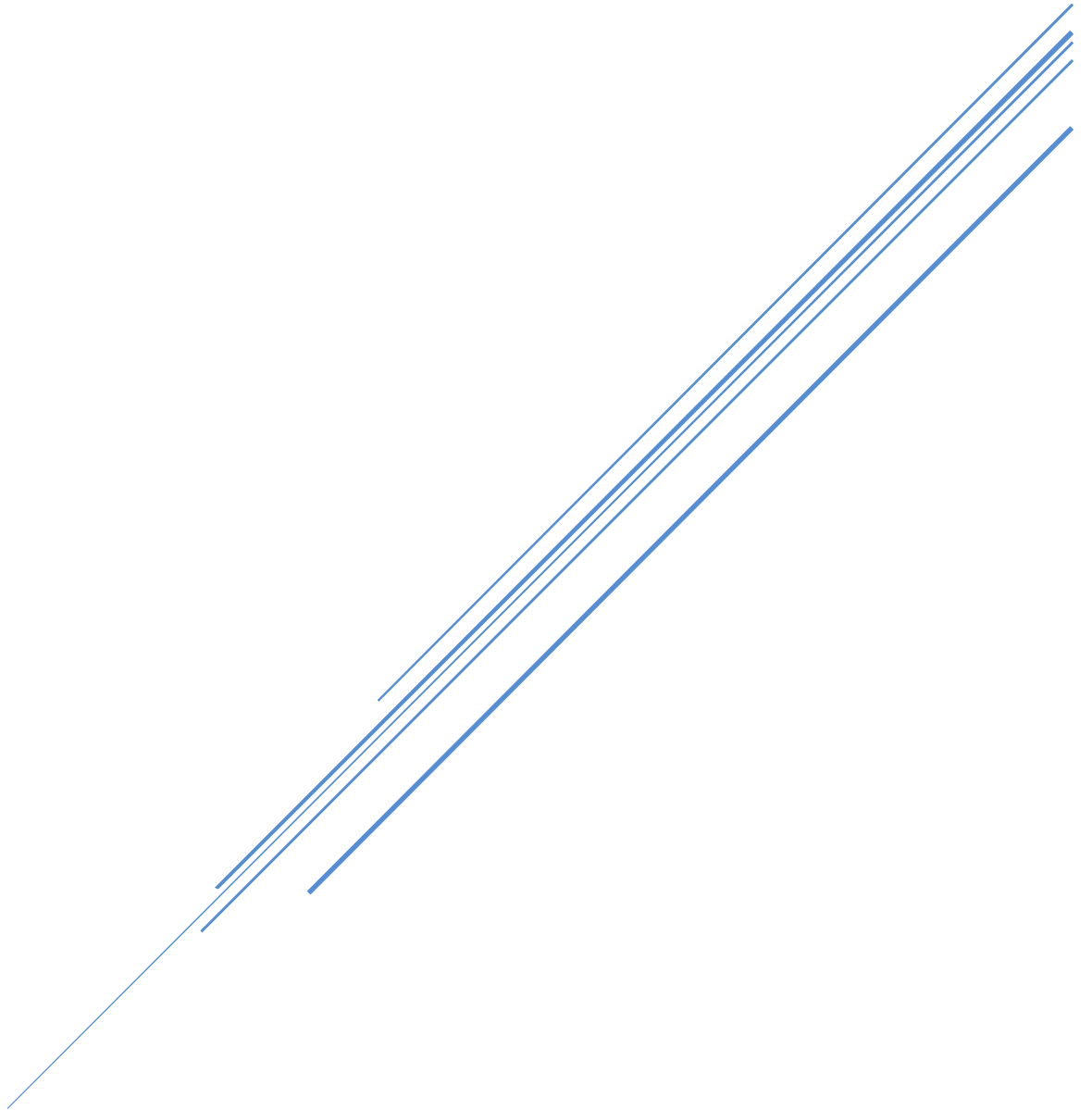




FAIR TRADING COMMISSION

ANNUAL REPORT 2015/2016



Mission Statement

To provide for the maintenance & encouragement of competition in the conduct of trade, business and in the supply of services in Jamaica with a view to providing consumers with competitive prices and product choices.

FAIR TRADING COMMISSION
Unit 42A, New Kingston Business Centre
30 Dominica Drive
Kingston 5

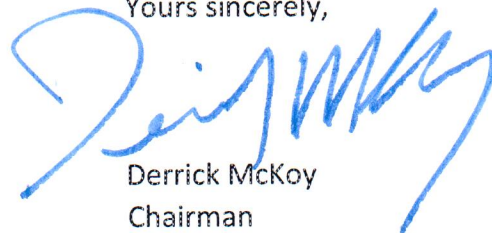
August 31, 2020

The Honourable Audley Shaw
Ministry of Industry, Commerce, Agriculture & Fisheries
4 Saint Lucia Avenue
Kingston 5

Dear Minister:

Per Section 14(1) of the Fair Competition Act, I have the honour of transmitting herein the Commission's Report for the Financial Year 2015/2016 and a copy of the Financial Statements of the Commission's Accounts as at March 31, 2016, duly certified by the Auditors.

Yours sincerely,



Derrick McKoy
Chairman

Members of the Commission 2020-2021

Dr. Derrick McKoy (Chairman)

Mr. Stuart Andrade

Mr. Robert Collie

Miss Dorothy Lightbourne

Mr. David Miller (Executive Director)

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FINANCIAL STATEMENTS

Executive Director's Overview

During the 2015/2016 Financial Year, the Fair Trading Commission (FTC) continued to focus on several areas that are at the core of our responsibilities. Enforcement, understanding markets making impactful recommendations, competition advocacy, public education, and staff development remained at the top of our priorities.

For the first time in the history of the English speaking Caribbean, an international conference on competition policy was hosted by a Caribbean country. Jamaica, through the FTC, hosted the Latin American Competition Forum (LACF), which is an annual event that brings together competition agencies of Latin America and North America, and the Caribbean, to discuss topical competition issues.

The event was significant to the positioning of the FTC among competition agencies in the western hemisphere as a credible and notable institution, and therefore the Staff pulled out all the stops to make the event a success. It brought added recognition to the FTC on the global sphere as 61 persons from 27 countries and institutions participated. It was funded for the most part by the Inter-American Development Bank (IADB), and ties with the Organization for Economic Cooperation and Development (OECD) and the IADB were strengthened.

We continued on our trek to broaden the scope of the Fair Competition Act (FCA) to include provisions that speak directly to a Mergers and Acquisitions Review Regime by consulting with other Ministries, Departments, and Agencies. Comments and suggestions were requested from the Attorney General's Chambers, Financial Services Commission, Broadcasting Commission, Bank of Jamaica, and the Office Utilities Regulations, to name a few. Additionally, the World Bank and JAMPRO had, by year's end, indicated that the budget space for the funding of a Consultant to guide the development of the framework for the Regime had been created. The consultancy is one of the activities under the World Bank Foundation for Competitiveness and Growth Project.

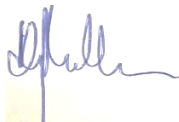
Judgment in the model year issue was handed down by the Court in May 2015, settling the issue of responsibility for the discrepancy in the model year of vehicles imported into Jamaica. In February 2016, the FTC entered into a Consent Agreement with two of Jamaica's leading media entities, Radio Jamaica Ltd and The Gleaner Company Limited as they had

merged into a single entity. The merger is significant to the media sector, the advertising agencies, and the shareholders of both companies.

Energy supply and distribution are at the heart of our economy, and the FTC continued to devote resources to examining various aspects of the energy sector to inform government policy. Several discussions were held with the Ministry of Science Technology Energy & Mining (MSTEM) as well as the Petroleum Trade Reform Committee (PTRC), towards strengthening the legislative and operational framework of the petroleum sector and improving the relationship between market participants in that sector. Areas discussed included the FTC's revised Code of Conduct, which includes a framework for enhancing the relationship between marketing companies and retailers; the existing legislative and policy framework that governs the petroleum market; amending the licensing conditions for marketing companies; and the allegations of "off-spec" petroleum products that were being sold in recent times as well as implementing corrective measures for reducing the likelihood of a reoccurrence.

Our Staff's technical capacity was strengthened through participation in CARIFORM's September 2015 staging of a Training of Trainers Workshop. By being certified from this Workshop, in March 2016, one of our Competition Analysts led discussions on the economics of competition policy and conducting market studies in a CARICOM workshop. One of our Legal Officers will participate as a facilitator in another workshop that is scheduled for May 2016. We applaud the four Staff who were certified: Our Competition Bureau Chief and our Senior Legal Counsel, as well as a Competition Analyst and a Legal Officer.

Our Staff is integral to our continued development and in producing the output required from the Commission, and I thank them for their continued dedication and commitment to achieving our objectives.



Executive Director

June 22, 2016

About us

The Fair Trading Commission (FTC) was established in 1993 to administer to administers the Fair Competition Act (FCA), which provides for the maintenance and encouragement of competition in the conduct of trade and business and the provision of services in Jamaica, with a view to ensuring that markets are competitive and that consumers are provided with competitive prices and product choices.

Functions of the FTC

The functions of the FTC as set out in section 5 of the FCA are to:

- Carry out, on its own initiative or at the request of the Minister or any other person, investigations in relation to the conduct of business in Jamaica in connection with matters falling within the provisions of the FCA;
- Advise the Minister on matters relating to the operation of the FCA;
- Make available to businesses and consumers, general information with respect to their rights and obligations under the FCA;
- Cooperate with and assist any association in developing and promoting the observance of standards of conduct for the purpose of ensuring compliance with the FCA; and
- Undertake studies and publicize reports and information regarding matters affecting the interests of consumers.

The FCA contains two broad categories of prohibitions, those dealing with anticompetitive behavior and those dealing with anti-consumer behavior. Regarding anticompetitive behavior, the FCA addresses abuse of a dominant position, agreements that substantially lessen competition, exclusive dealing, market restriction, resale price maintenance, tied selling, price-fixing, and bid-rigging. Regarding anti-consumer behavior, the FCA addresses misleading advertising, sale above advertised price, double ticketing, and the unavailability of goods advertised at a bargain price.

For its investigation, the FTC has the power to obtain any information that it considers necessary. Where the Court determines that the FCA has been breached, the FCA allows for a fine of up to JA\$5 million in the case of an enterprise and up to JA\$1 million in the case of an individual.

Governance

The FTC, a portfolio agency of the Ministry of Industry, Investment and Commerce (MIIC), is governed by a maximum of five Commissioners, who are appointed by the Minister.¹ The Executive Director is an ex-officio Commissioner who is appointed by the Commissioners. During the Year 2015/2016, the FTC was governed by four Commissioners, who were appointed in June 2012, and by the Executive Director.

The Commissioners during 2015/2016

Mr. Christopher Samuda (Chairman)

Mr. Samuda, an Attorney-at-Law, holds a Bachelor of Laws Degree from the University of the West Indies and a Certificate of Legal Education from the Norman Manley Law School. He was admitted to the Jamaican Bar in 1986. He also served as the Chairman of the Board of Directors of the Creative Production & Training Centre Limited, the Board of Governors of the Media Technology Institute, and as President of the Jamaica Paralympics Association.

Ms. Michelle Brown, an Attorney-at-Law, was admitted to the Jamaican Bar in 1996. In addition to being an attorney, she has an MBA in International Business with a special emphasis on International Economic Relations from George Washington University in Washington, DC. Ms. Brown has also worked as a management consultant in Washington, D.C., and has a Master's in Law and Economics from the World Trade Institute in Switzerland. She also served as a Commissioner of the Anti-Dumping and Subsidies Commission.

Ms. Dena Davis has over 20 years of experience in the insurance industry and has received professional insurance training in Jamaica, the United States of America, and Canada, where she studied the different distribution systems of insurance and their effects on client services.

Dr. Densil Williams was appointed Commissioner while serving as the Deputy Executive Director of the Mona School of Business and Management. He is a Senior Lecturer of International Business with research interests in the areas of international business with a particular focus on the international activities of small firms, strategy, and international development.

¹ In March 2016, the name of the parent Ministry was changed from the Ministry of Industry Investment & Commerce (MIIC) to the Ministry of Industry Commerce Agriculture & Fisheries (MICAFA).

Mr. David Miller was appointed Executive Director in November 2009 after serving as General Manager of the FTC for nine years. He holds a Master's Degree in Accounting and a Bachelor's Degree in Management Studies from the University of the West Indies.

Priority Programmes

In line with its mandate as set out in section 5 of the FCA and its mission, "to provide for the maintenance and encouragement of competition in the conduct of trade, business and in the supply of services in Jamaica with a view to providing consumers with competitive prices and product choices," the FTC sets the following general priority programmes within which to focus its work:

Enforce the FCA

Increase emphases on enforcing the provisions of the FCA through the Courts, in relation to business conduct deemed inimical to the competitive process to reduce and deter anticompetitive business practices.

Advocate for competitive markets

Improve market efficiency by promoting the least restrictive existing and proposed policies to ensure that those policies do not result in the hindering of competition.

Educate the public

Inform and educate policymakers, decision-makers, businesses, and consumers on the benefits of competitive markets to promote a better understanding of the role of the FTC in fostering a competitive economic environment.

Collaborate with other agencies

Maintain and enhance a presence in the international competition arena to further facilitate the growth and development of the Staff of the FTC; and provide advice on regional competition issues to the other CARICOM Member States.

Streamline processes

Streamline internal processes to find new and more effective ways to improve the delivery of services to all external Stakeholders as well as to the Staff and Commissioners of the organization, as well as to enhance the efficiency with which we use our resources to carry out our primary function of promoting competition.

Strategic Priorities

As Jamaica's competition advocate with the primary responsibility to promote competition and competitive markets, for the benefit and consumers and businesses, and ultimately for improved productivity and economic growth, the FTC is critical to Vision 2030 National Goal #3: - Jamaica's economy is prosperous. National Outcome #8, an enabling business environment, and National Outcome #12, internationally competitive industry structures, are supported and enabled by the work of the FTC, including in partnership with other entities.

Main Priority Issues

During the 2015/2016 Financial Year, in line with our Strategic Business Plan 2015/2018, and Operational Plan for 2015/2016, we continued work commenced in the previous year and embarked on new projects. The main issues dealt with included the following matters considered to be far-reaching in affecting markets and impacting consumers.

Enforcement

The ongoing matter concerning Digicel Jamaica Limited's acquisition of its main rival Claro continued to be of interest as it has severe implications for the FTC's ability to carry out its mandate toward the effective administration of competition law in Jamaica.

In 2014 the Court of Appeal in the Digicel-Claro acquisition matter held that the FTC does not have jurisdiction, and the Court of Appeal interpreted 'agreements' in a way not defined by the wording of the statute. The FTC contended that the Supreme Court's Judgment that the FTC has jurisdiction, pursuant to section 17 of the Fair Competition Act, over matters relating to mergers and acquisition as well as in issues in the telecommunications sector, was correct and sought to have the matter heard by the Judicial Committee of the Privy Council.

Amendments to the Fair Competition Act were not viewed as a workable option, and the problem could therefore be rectified only by a reversal of the Judgment by a Higher Court. Accordingly, the FTC applied to the Court of Appeal for conditional leave to appear before the Privy Council. Conditional leave was granted in June 2015, and a date for the hearing of its application for Final Leave to the Privy Council is expected to be assigned in the 2016/2017 Financial Year.

Market Studies

Conducting market studies provides us with an understanding of how particular markets work, are operating, and whether there are competition concerns. The objective of producing at least three studies was one of our priorities for the year.

The petroleum industry is at the heart of Jamaica's economy as it impacts nearly all industries. It is, therefore, essential that the FTC continues with its efforts to improve the regulatory and oversight framework of the petroleum industry towards ensuring that competition issues and the impact of the industry on consumers are appropriately considered.

Legislative Changes

To effectively promote competition and protect consumers and businesses against anticompetitive business practices, comprehensive legislation is crucial. Work towards having the Fair Competition Act sufficient to address anticompetitive conduct has been and continued to be of priority and great importance. The much needed general amendments remained at the forefront with consultation on The Fair Competition Act (Amendment) Bill 2015 between the MIIC, the Office of the Chief Parliamentary Counsel, and ourselves.

Also, pursuant to Cabinet Decision No. 2/15 dated January 12, 2015, to examine the scope of the FCA concerning a merger regime for Jamaica, the FTC sought funding from several developmental agencies to hire a consultant who will guide the process of developing an appropriate framework. By all indications, the consultant will be funded under the World Bank Group's Foundations for Competitiveness & Growth Project in the 2016/2017 Financial Year. The Planning Institute of Jamaica will manage the procurement process, and JAMPRO will oversee the activity.

Performance

Overall performance

	Target	Actual
Enforcement		
<i>Court matter</i>	2	1
<i>Consent Agreement</i>	3	2
Case Monitoring & Management		
<i>Initiate action into complaints within 5 days of receipt</i>	100%	100%
<i>Complaints Resolution rate</i>	75%	38%
Market study	3	4
Advocacy	4	7
Public Education		
<i>Seminar/ Workshop</i>	2	2
<i>Publication</i>	7	7

Enforcement

Court Matters

FTC wins model year case against Crichton

On May 22, 2015, the Supreme Court delivered Judgment in the case of Fair Trading Commission v Crichton Automotive Limited. In its Judgment, the Court found that Crichton Automotive Ltd (CAL) is liable for misleading representation under section 37 of the Fair Competition Act (FCA).

The case had arisen upon the FTC's investigation into an allegation that CAL had misled a customer regarding the model year of a Nissan Sunny motor car. At the time of sale, the car was represented as a 2007 model. Still, the Island Traffic Authority and Fidelity Motors

Limited, the authorized Nissan dealer in Jamaica, confirmed that the motor car is, in fact, a 2005 model.

The Court imposed a penalty of \$2 million against CAL for breach of the FCA; and awarded costs to the FTC. In doing so, the Court indicated that it was concerned that CAL had refused to take responsibility for the error. In that regard, there was evidence before the Court that even when CAL was presented with confirmation of the correct model year, it refused to resolve the matter, thereby making court action necessary.

Consent Agreements

The amalgamation of the Assets of RJR and the Gleaner

In August 2015, the FTC reviewed an application for the amalgamation of the assets of two of Jamaica's leading media entities, Radio Jamaica Ltd ('RJR') and the Gleaner Company Limited ('Gleaner'). The proposed transaction would see the media-related assets of Gleaner being hived-off to RJR.

The FTC's report of its review noted that the Gleaner held leading positions on the Internet and newspaper media platforms while RJR held leading positions in radio, television, and Internet platforms. The FTC found that the proposed transaction raised significant competitive concerns in the markets/sub-markets where there was a significant overlap of the two entities: (i) The Internet-based media sub-market; and (ii) the advertising service market. Further, the proposed transaction (a) was likely to harm subscribers by reducing the incentives to engage in research and development of new products on the internet platform; and (b) would give the amalgamated entity a significant control of media audience across multiple platforms. This would increase the incentives and opportunities for the amalgamated entity to engage in anticompetitive discriminatory conduct in the downstream market by raising costs for independent advertising agencies to acquire advertising media space. The FTC concluded that while public benefits were arising from the proposed transaction, they were inadequate to off-set the adverse public interest harm raised.

As such, the FTC approved the amalgamation conditional on prescribed steps, which would mitigate the potential adverse effects while preserving the potential benefits of the proposed transaction. In February 2016, the FTC and the applicants entered into a Consent Agreement, which defined four remedial measures that would preserve the benefits that are intended to arise from the agreement. The four remedial measures cover the areas: (a) news creation; (b) news distribution; (c) production of advertisements; and (d) discriminatory conduct

against independent advertising agencies. In addition, the parties paid the Commission's costs of \$3,267,000.

ISSA settles with FTC, issues public apology

In September 2015, the FTC entered into a Consent Agreement with the Inter-Secondary Schools Sports Association (ISSA). In promoting the ISSA Boys and Girls Championships 2015, ISSA issued several advertisements inviting members of the public to purchase tickets to see the event. The FTC became aware that some ticket holders who turned up at the National Stadium were denied entry to the venue where the Championships were being held.

The FTC investigated the matter and concluded that ISSA breached Section 37 of the Fair Competition Act, which prohibits businesses from making to the public representations that are false, misleading, or likely to be misleading. ISSA agreed to settle the matter in accordance with the Fair Competition (Notices and Procedures) Regulations 2000, by way of a Consent Agreement wherein ISSA was required to pay the FTC's costs and issue a public apology.

Complaints handled

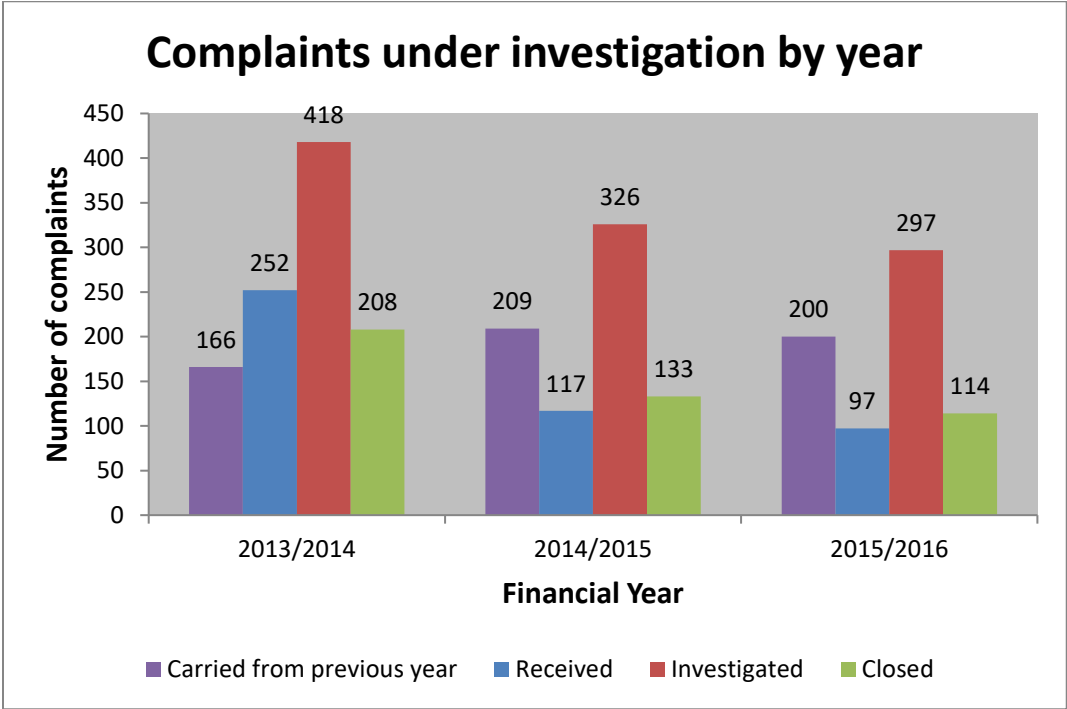
During the period April 1, 2015, to March 31, 2016, we investigated 297 complaints. This comprises 200 complaints that were unresolved at the end of the previous year; and 97, which were received during the year. For the year, 114 cases were resolved and closed - a resolution rate of 38 percent; and a total of 183 complaints remained under investigation and were carried forward to the Financial Year 2016/2017. See Table 1 and Figure 1 below.

Table 1: Complaints Received (by Category) during the 2013/2014, 2014/2015 & 2015/2016 Financial Years

Industry Category	Complaints Received					
	2013/2014		2014/2015		2015/2016	
	Number	Percentage of Total	Number	Percentage of Total	Number	Percentage of Total
Telecommunications	66	26.2	29	24.8	22	22.7
Household Appliances & Supplies	19	7.5	7	6.0	6	6.2
Motor vehicles	77	30.6	25	21.4	21	21.6
Financial & Insurance Services	12	4.8	12	10.3	13	13.4
Real Estate & construction	5	2.0	0	0	0	0
Education	7	2.8	11	9.4	9	9.3
Professional Services	12	4.8	8	6.8	5	5.2
Transportation	5	2.0	1	0.9	1	1.0
Government Services	1	0.4	1	0.9	1	1.0
Other	48	19.0	23	19.7	19	19.6
Total	252	100	117	100	97	100

Of the 297 cases that were investigated, 71 were cases regarding model year discrepancy. Although all these cases were similar and the Court settled one, the law requires that each case be treated on its merit. Therefore, the 71 cases remained open as the Commission deliberated on an approach for treating with them. This impacted negatively on our case resolution rate for the Financial Year.

Figure 1: Complaints under investigation by year



Of the 297 complaints investigated during the year under review, (249) 84 percent are classified as matters relating to consumer protection; (34) 11 percent are classified as competition protection; and (4) one percent as requests for opinion or information. Ten of the complaints received were considered as being outside the purview of the FCA. These were therefore transferred to other agencies, where appropriate.

In addition to the complaints investigated, the FTC also completed 14 Opinions covering the media, groceries, petroleum, and education sectors as well as 64 Requests for Information covering the following sectors: construction, electricity, telecommunications, financial services, automobile, furniture.

Market study

Groceries

The FTC completed a study of the grocery sector in September 2015. The objective of the study was to understand the main impediments to competition in the sector. The main finding is that the development of private labels offers the greatest scope for stimulating competition in the sector. Private labels refer to products sold under the retailer's name or a name created by the retailer for its exclusive use.

The general perception among consumers is that private labels were lower-quality alternatives to branded products. This limited the extent to which private labels competed with branded products. Today, this perception is not as rigid as it was in former years, which is mainly due to the improvements in the quality of private labels. In some instances, private labels were manufactured by producers of branded products.

The study concluded that retailers are highly motivated to deliver higher quality, more affordable products for final consumers. The study formed part of the discussion at the Latin American Competition Forum, which was held in Montego Bay on September 23-24, 2015.

Nutraceutical

The FTC completed a Research Paper aimed at recommending an appropriate framework for distributing nutraceuticals produced in Jamaica, with specific reference to marijuana.

The Paper entitled "Designing an Optimal Structure for a Nutraceutical Industry in Jamaica: A Preliminary Assessment", looked at demand and supply-side considerations such as industry regulation and potential legal trade restrictions. It also discussed the involvement of the health and education sectors concerning the distribution of marijuana, as well as registering Jamaica as a Geographical Indication in the cultivation of marijuana.

The economic benefits from commercializing the cultivation and distribution of marijuana and derivative products, which is likely to flow to Jamaica, is contingent on trading the products on the international market. Our initial assessment suggests that the greatest threat to sustaining this industry may be current rules on the international trade of a product, which is primarily regarded as contraband in foreign markets. Therefore, more work is

required to determine whether and the extent to which these rules pose an impediment to accessing international markets.

The FTC also believes that this will be a fast developing industry and that some oversight ought to be granted to the FTC. Further, given the background of the prospective players at various levels of the distribution chain, there are likely to be different forms of combinations or amalgamations of investing entities. This is another example of the need to have explicit merger review provisions included in the FCA.

Motor Vehicle Insurance

The FTC completed a study of the motor vehicle insurance industry in January 2016. The objective of the study was to assess the level of competition in that industry, and the consequent benefit to consumers. We found that the industry consists of several markets that are demarcated by customer type. For example, the market for public passenger vehicle insurance is distinct from the market for haulage vehicle insurance. The industry is characterized by steep regulatory requirements, high capital costs, and large financial risks. The ease of entry into each of the markets varies; likewise, the number of providers in each market varies, ranging from one to eight. Additionally, the customer base in the industry has remained stable over the period of the study, with the number of providers in the industry decreasing from fourteen to eight.

From our study, we garnered that despite the impediments to entry into the industry, entry into the distinct markets themselves have significantly fewer impediments. This arises from the capability that all insurers within the industry can readily enter any of the markets in which they do not participate. Thus, for markets with few or single providers, they are likely to behave as if they were in a competitive environment. Furthermore, the existence of brokers serves to improve consumer's access to information that enhances the competitive process within markets. Our study concludes that the environment within which this market operates is likely to produce a competitive outcome.

Electricity

The FTC initiated a study to assess the potential impediments to competition in the electricity sector. Jamaica's electricity industry has emerged from a state-owned monopoly to a privatized one and finally introduced multiple source generators of electricity—as provided by the Independent Power Producers (IPP). Despite the evolution, the industry is plagued by high prices and remains vulnerable to rising oil prices.

We concluded that the removal of legal barriers to the various segments of the industry is a necessary but insufficient step to promoting competition. Policymakers must also engineer the removal of economic impediments to effective entry and/or expansion. Policy implementations must include (i) ease of access to the national grid; (ii) pricing flexibility which will reflect cost; (iii) pro-competitive conduct among incumbents; and (iv) informing and empowering consumers.

Advocacy

In addition to enforcement tools, we use competition advocacy to promote and protect competition through working with several government entities.

During the year 2015/2016, some of our advocacy activities related to:

1. The Petroleum Sector
2. Tertiary level education institutions
3. Banking fees and charges
4. Construction sector

The Petroleum Sector



- **Strengthening the petroleum industry**

The FTC developed measures to improve the relationship between petroleum haulage contractors and petroleum marketing companies (PMCs). The overarching objective of the FTC's interventions is to create more significant opportunities and incentives for lower prices and increased choices for final consumers.

During the year, the FTC revised the Code of Conduct, which it published in 2004, with the intention of engaging key stakeholders regarding the extent to which the proposed Code of Conduct can be incorporated in the license issued to PMCs. The Code of Conduct addresses several issues and areas of concern in the market for petroleum products. Notable issues and areas of concern that are addressed include the contractual relationship between wholesalers and retailers and the pricing framework for wholesalers and retailers, as well as the requirement to display pump prices accurately and consistently. The FTC suggested that MSTEM consider including in the licensing requirements for marketing companies, several of the items described in the revised Code of Conduct, as well as safety, health, and environment issues.

Further, the FTC has recognized that incidences of 'bad gas' during the year cast a shadow on the integrity of the distribution chain. Accordingly, the FTC, along with other key stakeholders including petroleum marketing companies, gasoline retailers, and haulage contractors, continued to work with the Ministry of Science, Technology, Energy & Mining to ensure that issues pertaining to competition, standards, quality, safety, and other factors which affect the market are addressed in a timely manner.

- **Goodwill and vertical integration in the petroleum sector**

The FTC released two position papers on matters concerning the petroleum sector. The first paper related to the inclusion of "goodwill" compensation in contracts between bulk distributors and retailers of petroleum products. The value of a company's brand name, solid customer base, good employee relations, and any patents or proprietary technology represent goodwill. Marketing companies and retailers may generate goodwill at retail locations.

With goodwill compensation, retailers have incentives to exert greater levels of effort to generate sales. Accordingly, goodwill compensation to retailers, by stimulating retailer

efforts to drive sales, is likely to increase the value of the product to final consumers. Contracts between retailers and marketing companies should include a scheme for measuring and compensating the goodwill between both parties at the conclusion of the contract. The FTC's position on the inclusion of compensation in respect of Goodwill, in contracts between bulk distributors and retailers, was accepted by the PTRC as one of the recommendations for reform of the sector.

The second position paper concern the competitive effects of vertical integration in the petroleum sector. Vertical Integration is a business transaction that results in an entity operating at different stages of the production and/or distribution chain in the same industry. The structure of the Petroleum sector in Jamaica is such that there are three main stages in the distribution chain: (i) Bulk supply; (ii) Transportation; and (iii) Retail supply (filling stations). There are numerous suppliers at each stage of the distribution chain.

The structure of the petroleum sector plays an essential role in the assessment of the probable effect of vertical integration on competition in the sector, and based on the structural characteristics of Jamaica's petroleum sector, vertical integration is unlikely to have adverse competitive effects.

- **Petrojam's proposed rebate incentive scheme**

The FTC did not object to the proposed implementation of a loyalty rebate incentive scheme for sales of Petrojam's petroleum products. Petrojam proposed to offer price discounts or extended credit terms only to petroleum marketing companies (PMCs), which source all their petroleum products requirements from Petrojam. The FTC's position was informed by extensive evidence in the literature, which suggests that loyalty rebate schemes are unlikely to harm consumers or rival suppliers of refined petroleum products given the ease to which the larger PMCs can directly source and locally store petroleum products from the international markets.

Standards for Tertiary Level Education



Pedestrians pass by the Montego Bay Cultural Center in Montego Bay, Jamaica.

Since 2014, the FTC has been working with the Jamaica Tertiary Education Commission (J-TEC) to develop standards to guide tertiary level education in Jamaica. In that year, J-TEC was mandated by the Ministry of Education to regulate the tertiary sector to create a world-class system of higher education.

During the last quarter of 2015, the FTC participated in several stakeholder meetings and commented on documents such as the Jamaica Tertiary Education Commission Act, J-TEC proposed registration form, and tertiary education provider standards. The FTC's comments were informed by complaints regarding tertiary level education that were lodged with the Commission over several years.

The FTC is of the view that the implementation of standards for tertiary level education in Jamaica will play an important role in the sector.

Regulating Bank Fees



The FTC reviewed and expressed its non-objection to the recommendations made in the Report of the Sessional Select Committee of the House of Representatives, which includes Observations, Findings, and Recommendations. The recommendations were aimed at improving consumers' awareness of banking practices as well as reducing banking fees generally; and the FTC concluded that the recommendations are not likely to affect competition or consumers adversely.

Construction sector



- **Cemex acquisition of Caribbean Cement Company Limited**

Concerning the acquisition of Trinidad Cement Limited (TCL), the parent company of Caribbean Cement Company Limited (CCCL), by Cemex on the local cement market, the FTC submitted to the MIIC several competition issues for consideration.

It was pointed out that the Cemex takeover could have a significant adverse impact on the overall economy as it resulted in key structural changes in the construction industry.

Specifically, Cemex, by virtue of being registered as a contractor in Jamaica, is vertically integrated into the construction industry in Jamaica in a manner that TCL was not hitherto. To the extent that TCL supplies up to 85% of the domestic cement market, there is a legitimate concern that Cemex could engage in anticompetitive practices by leveraging its position in the cement sector to acquire market power in other sectors, such as the construction sector. Cemex is the third-largest manufacturer of cement in the world and, therefore, would have the capacity to undertake a significant portion of the construction works in Jamaica. If Cemex should exercise market power in the construction sector, one would expect to see a sustained increase in prices above the level that they would otherwise be.

Secondly, the Cemex takeover could adversely affect Jamaica as post-acquisition, there exists the potential for collusive price-fixing activities throughout the region. In 2009, Cemex was investigated by Mexico's antitrust authority for price-fixing. In Colombia, Cemex, Holcim, and local producer Cementos Argos S.A. were fined \$1.3 million for fixing prices in 2005.

The FTC concluded that the most effective means of mitigating the potential threat posed by the Cemex takeover would be to expose Cemex to greater competition in the cement sector. The research suggested that the importation of cement is an effective channel for stimulating competition. This would most likely be achieved by relaxing, if not eliminating, existing constraints to cement being imported in Jamaica. The primary constraints are (i) the 15% cap on importation; and (ii) the 15% common external tariff (CET) on cement sourced outside of CARICOM.

- **The market for concrete building blocks**

The Bureau of Standards Jamaica (BSJ) brought to the forefront of the MIIC the issue of the prevalence of block makers who are not registered with the BSJ and the high number of block makers whose blocks do not meet the established standard. The FTC shared its position with the MIIC, the Consumer Affairs Commission (CAC) and the BSJ, the possibility of a case being brought under Section 37 of the FCA, Misleading Representation, as a likely course of action for the FTC.

Public Education

As a commitment to educating the business community, policymakers, and consumers on competition law matters, we undertook several activities for the year, most of which have become an annual event. These events include publications and speaking engagements or presentations by our Staff. Below are some of the main events for the year.



**Competition in the
retail sector: Is the
consumer still king ?**



- Jamaica Hosts 2015 Latin American Competition Forum
- Crumbs of Truth: Misleading Advertising in the Marketing of Bread
- Putting Consumers First Make Markets Work
- Petrol Conservation Tips for the Motorist



www.jftc.gov.jm

Annual Magazine

The FTC released the 20th edition of its annual magazine **Compete** in January 2016. The theme, "*Competition in the retail sector: Is the consumer still king?*" highlighted the role of consumers in promoting competition in retail sectors. The magazine was a compilation of several articles from the public and private sectors and highlighted numerous FTC activities held during the year. The magazine is distributed to approximately 700 persons, both local and overseas, to Government Ministries, Departments, and Agencies, academic institutions, business enterprises, and professionals. It is posted on the FTC's website www.iftc.gov.im.

Newsletter

FTCNewsline is a quarterly newsletter that contains information on competition matters dealt with by the FTC. For the year, four issues were published in April, July, and October 2015 and January 2016. These issues were emailed to over 400 persons, including representatives of the major television stations, newspapers, and radio stations. The newsletter aims to provide insights into the work of the FTC; and to assist persons in better identifying issues that may pose competition concerns.

Newspaper Publication

The following article authored by the Staff was published in the Daily Gleaner:

- *"Pre-Merger Assessment a More Healthy Alternative,"* co-authored by Competition Analysts, Ms. Verlis Morris and Mr. Desroy Reid, and published in the Daily Gleaner. The article describes the benefits of having a pre-merger framework for reporting and assessing mergers and acquisitions.

FTC Participation in Workshops & Seminars

- **Mobile Business Clinic**

The FTC continued as a sponsor of the Mobile Business Clinic (MBC) to disseminate much-needed information to the Micro, Small, and Medium-Sized Enterprises (MSMEs) on how the dynamics of competition law and policy can assist in business growth.

The first seminar was delivered at the launch of the MBC in November 2014, and the Executive Director participated in the Business Suite of Mobile Business Clinic held in October 2015, in Portland, where he interfaced with several small business operators in the parish.

- **Motor Vehicle Policy Forum**

The Executive Director participated in the motor vehicle policy forum, held on September 8, 2015, in Kingston. The forum was hosted by the Ministry of Industry, Investment and Commerce and the Trade Board Limited. The purpose of the forum was to sensitize consumers about the revised Motor Vehicle Policy and to discuss issues affecting consumers and businesses in the industry.

The new Policy introduced measures in conjunction with the modification of other specific guidelines governing the importation of motor vehicles. Concerning the mandate of the FTC, it describes in greater detail the process for vehicle year designation, the approved methods for determining model year; and requires explicitly that motor vehicle dealers comply with their obligations under the FCA.

Mr. Miller spoke on the changes in the Policy as it relates to the FCA, as well as the core issues in the Court's 2015 judgment in the FTC v. Crichton Automotive Ltd. matter in which the FTC was successful. He described how the decision is likely to affect the operations of used car dealers in their dealing with consumers. He addressed several issues that affect motor

vehicle dealers directly such as, dealers' liability with respect to representations made and reasonable expectations of consumers as well as the types and extent of warranties that are offered to consumers.

- **Bureau of Standard of Jamaica Press Conference**

The Executive Director was a member of the BSJ press conference panel that discussed the issues and implications in the matter of block makers whose blocks do not meet the established standard. Excerpts of the press conference were aired on TVJ as well as on RJR and other radio stations.

- **Holy Childhood High School Career Day**

In February 2016, Ms. Verlis Morris, Competition Analyst, participated in a Career Day Function hosted by the Holy Childhood High School. Ms. Morris advised sixth form students about the path to becoming an economist.

- **Vocational Training Development Institute**

In March 2016, Mr. Marc Jones, Legal Officer, made a presentation to the Gordon Town VDTI on "*Fair Business Practices & Consumer Protection*".

Radio Interviews

The Executive Director was interviewed on:

- Power 106 FM on the Consent Agreement signed with ISSA regarding patrons who purchased tickets to the 2015 Boys & Girls Athletics Championships who were denied entry into the Stadium.
- Ralston Hyman's Power 106 radio talk show, wherein the focus and objectives of the FTC for the upcoming year, was discussed. Discussion included plans for creating and implementing a merger review regime and activities within, and effect on the economy, of sectors such as petroleum, banking, and groceries.

International Cooperation

FTC hosts 2015 Latin American Competition Forum



On September 23-24, 2015, the FTC, together with the Inter-American Development Bank (IDB) and the Organisation for Economic Cooperation & Development (OECD), hosted the 2015 Latin American Competition Forum (LACF) at the Montego Bay Convention Centre. Sixty-one persons from twenty-seven countries and international organizations from North America, Latin America, the Caribbean, and Europe attended the event, which was the first occasion that an international conference on competition policy of this nature was hosted in the English-speaking Caribbean.

The LACF is an annual event that brings together competition agencies of Latin America, North America, and the Caribbean to discuss topical competition issues. The focus for this year was on the ex-post analysis of agency effectiveness and advocacy activities, and competition in the retail sector. The forum was organized into the following sessions: (1) Structural Issues in the grocery Sector: Mergers and Regulatory Issues; (2) Measuring Competition Advocacy's Impact in Latin America and the Caribbean; and (3) Competition Issues in the Groceries Sector: Focus on conduct.

Jamaica's Competition Day Seminar & IBERO/American Forum



The LACF was preceded by Jamaica's Competition Day seminar at which the topic *"Transforming Jamaica Digitally: From Flintstones to Jetsons"* was explored. The discussion was moderated by Dr. Kevin Harriott, Competition Bureau Chief of the FTC. The panel comprised Mr. Kamau Chionesu of the Mona School of Business & Management, Mr. Charles Douglas of Cable & Wireless Jamaica Limited, Mrs. Gail Moss-Solomon of Digicel Jamaica Limited, Mr. Maurice Charvis of the Office of Utilities Regulation, Mr. Russell Damtoft of the United States Federal Trade Commission, Ms. Maria de la Luz Domper of the Chile Competition agency and Mr. Tomas Suarez-Inclan Gonzales of the Spanish Competition Authority.

The IBERO/American Forum was also held on September 25, 2015, and Dr. Delroy Beckford, Senior Legal Counsel at the FTC presented a paper entitled *"Sanctioning Competition Law & Protection of Fundamental Rights"*.

The Competition Day Seminar was attended by representatives of the business community in addition to the LACF participants, and the IBERO/American Forum was attended by LACF participants only.

CARIFORUM - EU Capacity Building Project on Competition

As a show of commitment to the strengthening of competition in the region, the FTC contributed to the CARIFORUM-EU Capacity Building Project on Competition. The project is geared at assisting OECS member states in developing their competency in competition law and ultimately establishing their competition authority.

A workshop was held from March 14-18, 2016, in Antigua and Barbuda, and the FTC's presentations were entitled "*Economics of Competition Policy*" and "*Conducting Market Studies*". This is one of a series of workshops that are being held throughout CARICOM, aimed at training 'budding' competition practitioners in the area.

The FTC is committed to promoting competitive markets and to lending a helping hand to other jurisdictions that are looking to do the same. A second workshop was scheduled for May 2016 in Trinidad & Tobago.

Instituting Competition Authorities in the OECS

In furtherance of CARICOM's objective of identifying and agreeing on the most appropriate and practical method towards having competition regimes in the CARICOM Member States which do not have an operational competition authority, the Executive Director participated in a consultative meeting hosted by the Organization of Eastern Caribbean States (OECS). The meeting was held on November 23 and 24, 2015, in Castries, St. Lucia, and the critical issues discussed and considered were:

- Current realities within CARICOM and implications for competition law enforcement
- The most appropriate and workable formula for establishing competition agencies for countries which do have an operational competition agency
- Harmonizing the relevant laws in the different jurisdictions
- The existing jurisdiction and capacity of the CARICOM Competition Commission (CCC)
- Decisions taken by the CCC, Caribbean Court of Justice (CCJ) and/or national Courts
- The possibility of the CCC serving as a national competition agency for countries that do not have an operational competition agency, as well as the operational and funding implications.

Latin American & Caribbean Economic System (SELA) Annual Conference

The Executive Director also participated in SELA's annual conference, which was held on December 2 to 5, 2015, in Manta, Ecuador. The conference was hosted by SELA in collaboration with the United Nations Conference on Trade & Development (UNCTAD) and the Superintendency for Control of Market Power of Ecuador (SCPM). The Executive Director's presentation was entitled "*Impact of the Informal Sector on Trade & Competition in Jamaica*".

The event focused on trade and competition in the region, specifically, the regulation of competition within the framework of integration agreements of Latin America and the Caribbean, at both the regional and subregional levels. Two main subject areas were discussed, namely: Regulation and Competition; Matters in which there are commonalities between Competition and Trade issues.

Trinidad & Tobago FTC's Study Visit of the Jamaica FTC

The FTC accommodated Mr. Bevan Narinesingh, the Executive Director of Trinidad & Tobago's Fair Trading Commission (TT FTC) over two days in September 2015, during which the Mr. Narinesingh was exposed to the operational aspects of the FTC as well as to case handling by the technical staff. We also described the methodology used in investigating competition matters and shared our experiences in handling several cases and competition advocacy matters.

Bahamas Study Visit of the Jamaica FTC

The Executive Director met with Senator Jerome Gomex, Chairman of the Consumer Protection Commission (CPC) of the Bahamas, who are in the process of creating their Consumer Protection Agency. Mr. Miller shared his views and experience, with examples, on the usefulness and importance of using Consumer Protection legislation and the likely benefits which will accrue to consumers. He encouraged them to have Competition Protection legislation as well.

Review of the 2016 CARICOM Competition Commission (CCC) Work Programme & Budget

The FTC reviewed the CCC's performance for the 2015 calendar year as well as its expenditure relative to its Budget. We noted the CCC's continued support of several CARICOM initiatives and the creation and building of a competition policy regime in several member states which do not have a Competition Agency.

Concerning their 2016 Work Programme, the FTC underscored the need for the CCC to lead the way in building a competition culture throughout the region through initiatives such as advocacy, public education, and cooperation with key stakeholders in member states. Examples of useful tools named are hosting workshops for the judiciary, the business sector, and technical officers in the ministries with responsibility for consumer and competition protection. On the technical side, the FTC urged agreement on the regional framework for a mergers and acquisition regime.

The FTC reaffirmed its commitment to join with the CCC in providing ongoing technical assistance to other Government Ministries in the member states towards the establishment and full functioning of their national competition authorities.

Staff Training/Development

CARICOM Training of Trainers Workshop

Four Staff members participated in the Training of Trainers Workshop, which was held in Montego Bay on September 17 to 22, 2015. It was conducted by Professor Frédéric Jenny, Chairman of the OECD Competition Committee since 1994, Professor at ESSEC Paris Business School, and Head of the International Committee of the Review Concurrences. The program was designed to certify individuals from across CARICOM who would, in turn, teach competition law to wider groups within CARICOM territories. The objective is to upgrade the knowledge of the more mature competition authorities in CARIFORUM in competition law enforcement, to improve their analytical skills as well as enable them to train and provide guidance to new competition authorities and policymakers in the region.

Certification was granted to the four FTC Staff, namely Dr. Kevin Harriott, Competition Bureau Chief, Mr. Desroy Reid, Competition Analyst, Dr. Delroy Beckford, Senior Legal Counsel, and Mr. Marc Jones, Legal Officer.

2015 Seminar on Small and Medium Enterprise (SME) Development for Jamaica

Ms. Wendy Duncan, Legal Officer, participated in the 2015 Seminar on Small and Medium Enterprise (SME) Development for Jamaica, hosted by the Shanghai Education and Training Centre of Commerce in China during May and June 2015. The three-week programme was a comprehensive and rigorous one comprising formal lectures with case-studies, on-site trips to the locations discussed as well as on-site lectures to allow for assimilation and clarification of the real experience. Knowledge, information, and insight imparted was directly applicable to the Jamaican experience and context.

The Seminar specifically demonstrated the critical roles of resourcefulness and efficiency in development. It also provided insight into the crucial roles of innovation and conceptualization in development. Presentations highlighted the importance of time in development and reinforced the point that patience and careful planning would yield significant results, resulting in rapid growth.

Forecast for 2016/2017

Key operating measures for 2016/2017

In addition to the efficient resolution of complaints, for 2016/2017 we plan to continue advocating for the strengthening of the Fair Competition Act to allow for merger control regime that includes pre-merger notification. While there was a reduction in the number of complaints in 2015/2016, the proportion relating to telecommunications, motor vehicles and financial and insurance services remains relatively high. Consequently, given the importance of the telecommunications and financial services sectors to the economy and to consumer welfare, we will focus on those sectors during 2016/2017, through market study and advocacy activities.

The main operating measures in relation to the four core areas are as indicated in the table below. The core areas are Enforcement, Case Monitoring and Management; Market Study; Advocacy; and Public Education.

	Target
1. (a) Enforcement	
<i>Court matter</i>	2
<i>Consent Agreement</i>	3
(b) Case Monitoring & Management	
<i>Initiate action into complaints within 5 days of receipt</i>	100%
<i>Complaints Resolution rate</i>	75%
2. Market study	4
3. Advocacy	6
4. Public Education	
<i>Seminar/ Workshop</i>	2
<i>Publication (issues)</i>	6

Finances

Summary Statements of Finance

Table 2 provides a summary statement of the actual expenses by the FTC during Financial Year 2015/2016 as well as for two previous Financial Years. Also included is the Approved Budgetary Allocation for the review period.

Table 2: Approved Budget for 2015/2016 and Actual Expenses for Financial Years ended 2014, 2015 & 2016

Object	2015-2016 Approved (Ja \$)	2015-2016 Actual Expenses (Ja \$)	2014-2015 Actual Expenses (Ja \$)	2013-2014 Actual Expenses (Ja \$)
Compensation of Employees	59,241,000	61,184,549	56,273,421	56,118,701
Travel Expense & Subsistence	7,183,000	8,861,243	7,249,220	7,684,315
Rental of Building, Machinery & Equipment	9,104,000	12,012,651	7,878,406	10,335,356
Public Utility Services	3,046,000	2,169,691	3,012,736	2,942,609
Purchase of other Goods & Services	2,589,000	4,845,490	3,545,886	4,849,311
Asset Purchases	0	0	92,187	1,537,552
Total	81,163,000	89,073,624	78,051,856	83,467,844

Table 3: Budgetary Request, Approved Budget and Operating Income for Financial Years ended 2014, 2015 & 2016

	2015/2016	2014/2015	2013/2014
Budgetary Request	81,418,174	83,060,000	81,060,000
Approved Budget	81,163,000	74,767,785	73,514,457
Subvention Received	92,317,379	82,229,001	74,834,093
Other Income	35,910	12,323,013	136,762

Compensation

- Commissioners Compensation**

Name and Position of Director	Fees (\$)	Motor Vehicle Upkeep/Travelling or Value of Assignment of Motor Vehicle (\$)	Honoraria (\$)	All Other Compensation including NonCash Benefits as applicable (\$)	Total (\$)
Christopher Samuda Chairman	\$50,000 per month	0	0	0	600,000
Michelle Brown Commissioner	\$27,500 per month	0	0	0	330,000
Dena Davis Commissioner	\$27,500 per month	0	0	0	330,000
Densil Williams Commissioner	\$27,500 per month	0	0	0	330,000

- Senior Executive Compensation**

Name and Position of Senior Executive	Year	Salary (\$)	Gratuity or Performance Incentive (\$)	Traveling Allowance or Value of Assignment of Motor Vehicle (\$)	Pension or Other Retirement Benefits (\$)	Other Allowances (\$)	NonCash Benefits (\$)	Total (\$)
David Miller <i>Executive Director</i>	2015/ 2016	7,586,161	0	975,720	325,497	0	0	8,887,378
Ann-Marie Grant <i>General Manager</i>	2015/ 2016	6,518,839	0	975,720	278,134	0	0	7,772,693
Delroy Beckford <i>Senior Legal Counsel</i>	2015/ 2016	5,773,227	0	975,720	0	0	0	6,748,947
Kevin Harriott <i>Competition Bureau Chief</i>	2015/ 2016	6,363,663	0	975,720	296,895	0	0	7,636,278

Staff of the Commission

Staff of the Commission during the year April 1, 2015, to March 31, 2016

Executive Director	-	Mr. David Miller
General Manager	-	Miss Ann-Marie Grant
Senior Legal Counsel	-	Dr. Delroy Beckford
Competition Bureau Chief	-	Dr. Kevin Harriott
Legal Officer	-	Miss Wendy Duncan
Legal Officer	-	Mr. Marc Jones
Competition Analyst	-	Miss Verlis Morris
Competition Analyst	-	Mr. Desroy Reid
Accountant	-	Mr. Gregory McHargh
Research Officer	-	Miss Kristina Barrett
Research Officer	-	Mr. Paul Cooper
Executive Secretary	-	Mrs. Jean Lally
Senior Secretary	-	Miss Deborah Wilson
Clerk/Typist	-	Mrs. Latoya Wallace
Telephone Operator	-	Miss Sonya-Cai Burrell
Office Attendant	-	Mrs. Carol Fraser
Driver	-	Mr. Alwyn Hutchinson



FAIR TRADING COMMISSION

FINANCIAL STATEMENTS

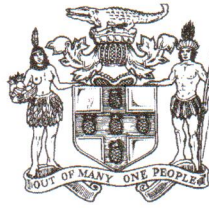
FOR THE YEAR ENDED

MARCH 31, 2016

**Fair Trading Commission
Financial Statements
For the year ended March 31, 2016**

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AUDITOR GENERAL'S DEPARTMENT
40 KNUTSFORD BOULEVARD
KINGSTON 5
JAMAICA

Email: audgen@auditorgeneral.gov.jm

INDEPENDENT AUDITOR'S REPORT

To the Board of Directors
of the Fair Trading Commission

Opinion

I have audited the accompanying Financial Statements of the Fair Trading Commission, set out on pages 1 to 14, which comprise the Statement of Financial Position as at March 31, 2016, Statement of Financial Performance, Statement of Changes in Equity and Statement of Cash flows for the year then ended, and a summary of significant accounting policies and other explanatory notes.

In my opinion, the Financial Statements give a true and fair view of the financial position of the Fair Trading Commission as at March 31, 2016, and of its financial performance, and its cash flows for the year then ended in accordance with International Public Sector Accounting Standards (IPSAS).

Basis for Opinion

The audit was conducted in accordance with the International Standards of Supreme Audit Institutions (ISSAIs). My responsibilities under those standards are further described in the *Auditor's Responsibility for the Audit of the Financial Statements* section of this report. I am independent of the Fair Trading Commission in accordance with the International Ethics Standards Board for Accountants' Code of Ethics for Professional Accountants (IESBA Code) and I have fulfilled my other ethical responsibilities in accordance with the IESBA Code. I believe that the audit evidence I obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, were of most significance in my audit of the financial statements for the year ended March 31, 2016. These matters were addressed in the context of the audit of the financial statements as a whole and in forming my opinion thereon. I have determined that there are no key audit matters to communicate in this report.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these Financial Statements in accordance with International Public Sector Accounting Standards. This responsibility includes designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

In preparing the financial statements, management is responsible for assessing the Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless there are plans to liquidate the Commission or to cease operations, or has no realistic alternative but to do so.

Auditor's Responsibility for the audit of the Financial Statements

My responsibility is to express an opinion on these Financial Statements based on my audit. I conducted my audit in accordance with the auditing standards issued by the International Organization of Supreme

Audit Institutions. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISSAIs, I exercised professional judgment and maintained professional skepticism throughout the audit.

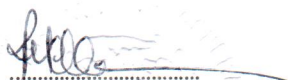
I also:

- Identified and assessed the risks of material misstatement of the financial statements, whether due to fraud or error, designed and performed audit procedures responsive to those risks, and obtained audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.
- Obtained an understanding of internal controls relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for expressing an opinion on the effectiveness of the Commission's internal controls.
- Evaluated the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Concluded on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. The conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Commission to cease to continue as a going concern.
- Evaluated the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that presents a true and fair view.

I have communicated with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that were identified during the audit.

Report on Additional Requirements of the Fair Competition Act

I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. In my opinion, proper accounting records have been maintained and the Financial Statements are in agreement therewith and give the information required in the manner so required.

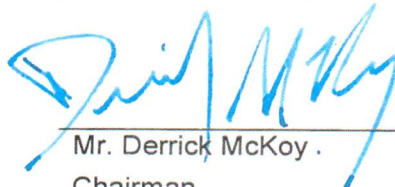

Auditor General

2020.106.110
Date

**Fair Trading Commission
Statement of Financial Position
As at March 31, 2016**

		2016	2015
	Note	\$	\$
Non-current assets			
Property, plant and equipment	6	2,579,286	3,062,778
Current assets			
Receivables and prepayments	7	2,213,247	4,315,612
Short Term Investment		3,267,000	-
Cash and cash equivalents	8	1,373,507	58,175
		<u>6,853,754</u>	<u>4,373,787</u>
Current Liabilities			
Accounts Payable	9	2,920,343	5,508,646
Statutory Deductions	10	4,633,317	4,840,792
Other Payables	11	2,857,049	3,662,898
		<u>10,410,709</u>	<u>14,012,336</u>
		<u>(3,556,955)</u>	<u>(9,638,549)</u>
Net Assets		<u><u>(977,669)</u></u>	<u><u>(6,575,771)</u></u>
Equity			
GOJ Capital Fund		9,219	9,219
Accumulated Deficit		<u>(986,888)</u>	<u>(6,584,990)</u>
		<u><u>(977,669)</u></u>	<u><u>(6,575,771)</u></u>

Approved for issue on behalf of the Fair Trading Commission on April 22, 2020
and signed on its behalf by:



Mr. Derrick McKoy
Chairman



Mr. Stuart Andrade
Commissioner

**Fair Trading Commission
Statement of Financial Performance
For the year ended March 31, 2016**

	Note	2016 \$	2015 \$
Revenue			
Competition Law Courses		184,000	828,000
GOJ Subvention		92,317,379	82,229,001
Appropriations-In-Aid Fund		3,302,700	1,639,759
Total Operating Revenue		<u>95,804,079</u>	<u>84,696,760</u>
Operating expenses			
Compensation of Employees	13	60,580,025	55,328,334
Travelling and Transportation	14	8,861,243	7,184,071
Premises Related Expenses	15	8,910,830	8,689,019
Public Utilities	16	3,398,441	3,177,782
Goods and Services	17	8,016,318	5,172,732
Depreciation	6	483,492	576,056
Bank Charges	18	112,308	114,934
Project Expenditure		1,432	262,966
Total Operating Expenses		<u>90,364,089</u>	<u>80,505,894</u>
Net Profit from Operations		5,439,990	4,190,866
Write off of Statutory payables	12	-	12,180,415
Other Income		35,911	161,354
Interest Income		122,201	86,604
		<u>158,112</u>	<u>12,428,373</u>
Surplus		<u>5,598,102</u>	<u>16,619,239</u>

**Fair Trading Commission
Statement of Changes in Equity
For the year ended March 31, 2016**

	<u>GOJ Capital Fund</u>	<u>General Reserve</u>	<u>Total</u>
	\$	\$	\$
Balance as at March 31, 2014	9,219	(23,204,229)	(23,195,010)
Surplus for the year	-	16,619,239	16,619,239
Balance as at March 31, 2015	<u>9,219</u>	<u>(6,584,990)</u>	<u>(6,575,771)</u>
Balance as at March 31, 2015	9,219	(6,584,990)	(6,575,771)
Surplus for the year	-	5,598,102	5,598,102
Balance as at March 31, 2016	<u>9,219</u>	<u>(986,888)</u>	<u>(977,669)</u>

**Fair Trading Commission
Statement of Cash Flows
For the year ended March 31, 2016**

	Note	2016 \$	2015 \$
Cash flows from operating activities			
Surplus for the year		5,598,102	16,619,239
Adjustments:			
Depreciation	6	483,492	576,056
(Increase)/Decrease in Current Assets		2,102,365	(3,069,329)
Decrease in Current Liabilities		<u>(3,601,627)</u>	<u>(15,419,241)</u>
Net cash provided by operating activities		4,582,332	(1,293,275)
Cash flows from investing activities			
Investments		(3,267,000)	-
Capital expenditure		<u>-</u>	<u>(92,187)</u>
Net cash used in investing activities		(3,267,000)	(92,187)
Net cash flows from financing activities			
		<u>-</u>	<u>-</u>
Increase/(decrease) in cash and cash equivalents		1,315,332	(1,385,462)
Cash and cash equivalents at beginning of year		<u>58,175</u>	<u>1,443,637</u>
Cash and cash equivalents at end of year		<u><u>1,373,507</u></u>	<u><u>58,175</u></u>

Fair Trading Commission
Notes to the Financial Statements
For the year ended March 31, 2016

1. IDENTIFICATION

The Fair Trading Commission (FTC) was established to administer the Fair Competitions Act (FCA) which was enacted on March 9, 1993; and commenced operations on September 9, 1993. The main activity of the FTC is the investigation of business conduct to determine if the FCA has been breached; and its mandate is to provide for the maintenance and encouragement of competition in the conduct of trade, business and in the supply of services in Jamaica with a view to providing consumers with competitive prices and product choices.

2. REPORTING CURRENCY

These financial statements are expressed in Jamaica Dollars (\$), which is the Commission's functional currency.

3. SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies applied in the preparation of these financial statements are set out below. The policies have been consistently applied for the years presented.

(a) Statement of Compliance and Basis of Preparation

The financial statements are prepared in accordance with International Public Sector Accounting Standards (IPSAS) and interpretations issued by the International Public Sector Accounting Standards Board (IPSASB). The IPSASB is an independent board of the International Federation of Accountants (IFAC). IPSAS are based on International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB).

The preparation of the financial statements to conform to IPSAS requires management to make estimates and assumptions that affect the reported amount of assets and liabilities, contingent assets and contingent liabilities at the reporting date and the income and expenses for the year then ended. Actual amounts could differ from these estimates.

The financial statements are prepared under the historical cost convention, modified for the inclusion of certain investments at fair value.

Where necessary, prior year comparatives have been reclassified to conform to current year presentation.

Fair Trading Commission
Notes to the Financial Statements
For the year ended March 31, 2016

3. SIGNIFICANT ACCOUNTING POLICIES (cont'd)

(b) Property, Plant and Equipment

Property, plant and equipment are stated at historical cost less accumulated depreciation. Depreciation is calculated on the straight-line basis at annual rates estimated to write off the carrying value of the assets over the period of their estimated useful lives. Annual rates are as follows:

Motor vehicles	25%
Furniture & Fixtures	10%
Computer equipment	25%

Property, plant and equipment are reviewed periodically for impairment. Where the carrying amount of an asset is greater than its estimated recoverable amount, it is then written down immediately to its recoverable amount.

(c) Cash and Cash Equivalents

Cash and cash equivalents are carried in the statement of financial position at cost. For the purpose of the cash flow statement, cash and cash equivalents comprise cash at bank and in hand, and short term deposits.

(d) Capital Fund

This fund represents capital grants received and is written off on a straight line basis over the life of the assets. An amount equivalent to depreciation is charged in the statement of financial performance.

(e) Employee Benefits

A provision is made for the estimated liability for untaken annual vacation leave due as a result of services rendered by employees up to the reporting date.

(f) Revenue recognition

Revenue represents subvention received from the Government of Jamaica and earnings from the hosting of training courses and consultancy services.

Interest income is recognized in the income statement for all interest bearing instruments on an accrual basis unless collectability is doubtful.

**Fair Trading Commission
Notes to the Financial Statements
For the year ended March 31, 2016**

3. SIGNIFICANT ACCOUNTING POLICIES (cont'd)

(g) Taxation

No provision has been made for taxation, as the Commission is tax exempt under Section 51 of the Fair Competition Act as provided for by Section 12(l) of the Income Tax Act of Jamaica.

4. PENSION SCHEME

The Commission operates a contributory pension scheme for its employees, with benefits based on the employees' earnings during recognized service. The Fund balance as at March 31, 2016 was \$133,658,326.15 (2015 - \$99,352,422.59).

5. FINANCIAL AND CAPITAL RISK MANAGEMENT

The Commission's activities expose it to a variety of financial risks: market risks (including currency risk and price risk), credit risk, liquidity risk, interest rate risk and operational risk. The Commission's overall risk management policies are established to identify and analyze the risk of exposure, and to set appropriate risk limits and controls to monitor risk and adherence to limits. The risk management framework is based on guidelines set by the Commissioners together with management and seeks to minimize potential adverse effects on the Commission's financial performance.

(i) Price Risk

Price risk is the risk that the value of the financial instrument will fluctuate as a result of changes in market prices. The Commission mitigates against this risk by assigning a mark-up of ten percent for inflation in the budget. However, when there is a reduction in the budget the Commission institutes measures to deal with the shortfall.

(ii) Currency Risk

Currency risk is the risk that the value of a financial instrument will fluctuate because of changes in foreign exchange rates. The Commission manages its foreign exchange risk by holding foreign currency bank accounts in reputable financial institutions.

(iii) Interest Rate Risk

Interest rate risk is that the value of a financial instrument will fluctuate due to changes in market interest rates. The Commission has no significant interest bearing assets or liabilities, income and operating cash flows are substantially independent of changes in market interest rates. The Commission's interest rate risk arises from deposits.

**Fair Trading Commission
Notes to the Financial Statements
For the year ended March 31, 2016**

5. FINANCIAL AND CAPITAL RISK MANAGEMENT (cont'd)

(iv) Credit Risk

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. The Commission has limited concentrations of credit risk. This risk is managed through adherence to staff loans and advances policy as well as maintaining good relationship with suppliers.

(v) Liquidity Risk

Liquidity risk is the risk that an organization will encounter difficulty in raising funds to meet its commitments associated with financial instruments. The Commission manages this risk by keeping committed credit lines available.

(vi) Capital Risk

Capital risk is the risk that the Commission fails to comply with mandated regulatory requirements resulting in breach of those requirements. The Commission's objectives when managing capital are to comply with capital requirements, safeguard the Commission's ability to continue as a going concern and maintain a strong capital base to support the development of its business.

(vii) Operational Risk

Operational risk is the risk of direct or indirect, loss arising from a variety of causes associated with the Commission's processes, personnel, technology and other external factors, other than financial risks. The Commission manages operational risk to avoid financial loss and damage to its reputation by adhering to good corporate governance practices.

**Fair Trading Commission
Notes to the Financial Statements
For the year ended March 31, 2016**

6. PROPERTY, PLANT AND EQUIPMENT

	USAID Furniture, Fixtures & Equipment	GOJ Motor Vehicles	GOJ Office Furniture	GOJ Fixtures & Fittings	GOJ Computers	Total
	\$	\$	\$	\$	\$	\$
At Cost or Valuation						
April 1, 2015	876,678	1,640,861	1,083,317	4,597,963	11,605,972	19,804,791
Additions	-	-	-	-	-	-
Disposals	-	-	-	-	-	-
Closing Balance	<u>876,678</u>	<u>1,640,861</u>	<u>1,083,317</u>	<u>4,597,963</u>	<u>11,605,972</u>	<u>19,804,791</u>
Depreciation						
April 1, 2015	876,678	1,640,861	884,358	2,618,109	10,722,007	16,742,013
Charge for year	-	-	26,008	354,765	102,719	483,492
Closing Balance	<u>876,678</u>	<u>1,640,861</u>	<u>910,366</u>	<u>2,972,874</u>	<u>10,824,726</u>	<u>17,225,505</u>
Net Book Value						
March 31, 2016	<u>-</u>	<u>-</u>	<u>172,951</u>	<u>1,625,089</u>	<u>781,246</u>	<u>2,579,286</u>
March 31, 2015	<u>-</u>	<u>-</u>	<u>198,959</u>	<u>1,979,854</u>	<u>883,965</u>	<u>3,062,778</u>

**Fair Trading Commission
Notes to the Financial Statements
For the year ended March 31, 2016**

7. RECEIVABLES AND PREPAYMENTS

	2016	2015
	\$	\$
Suppliers	23,897	84,785
Withholding Tax on C.O.D.	492,008	542,574
Staff Lunch Exp. March 2016	58,712	51,375
Other receivables	-	111,315
	<u>574,617</u>	<u>790,049</u>
GCT Refund	374,586	575,250
Salary Advance	-	60,000
Total Receivables	<u>949,203</u>	<u>1,425,299</u>
Prepayments	<u>1,264,044</u>	<u>2,890,313</u>
	<u>2,213,247</u>	<u>4,315,612</u>

8. CASH AND CASH EQUIVALENTS

	2016	2015
	\$	\$
Sagicor Bank-US\$ A/C	37,333	19,855
Sagicor Bank-Current A/C	1,330,174	32,320
Petty Cash	6,000	6,000
	<u>1,373,507</u>	<u>58,175</u>

9. ACCOUNTS PAYABLE

	2016	2015
	\$	\$
Electricity	102,139	316,533
Rental of Office space	-	2,973,562
Auditing	871,036	1,021,536
Other Payables	1,460,536	746,275
GCT Withheld FY 15/16	486,632	450,740
	<u>2,920,343</u>	<u>5,508,646</u>

The amount of \$871,036 includes unpaid Audit Fees of \$851,280 from March 31, 2011 to March 31, 2015.

**Fair Trading Commission
Notes to the Financial Statements
For the year ended March 31, 2016**

10. STATUTORY DEDUCTIONS

	2016	2015
	\$	\$
Statutory Deduction Owed by FTC	1,386,445	1,593,919
Statutory Deduction Owed by Ministry	1,532,990	1,532,990
Interest & Penalty on Statutory Deduction	1,713,882	1,713,883
	<u>4,633,317</u>	<u>4,840,792</u>

11. OTHER PAYABLES

	2016	2015
	\$	\$
Vacation Leave Pay	2,857,049	3,662,898
	<u>2,857,049</u>	<u>3,662,898</u>

12. WRITE OFF OF STATUTORY PAYABLES

Section 47A (4) of the Tax Collection Act enables The Minister of Finance and the Public Service to waive taxes. In keeping with this Act, the Tax Collection (Approved Write-Off) (Public Debt) Order, 2014 was issued. This instrument granted the Commission a waiver of \$12,180,415 for outstanding Education and Income taxes inclusive of interest and penalties. The amount was recognized as income during the financial year ended March 31, 2015 in accordance with IPSAS 23 – *Revenue from Non-Exchange Transactions*, Paragraphs 84 to 88 - *Debt Forgiveness*.

**Fair Trading Commission
Notes to the Financial Statements
For the year ended March 31, 2016**

13. COMPENSATION OF EMPLOYEES

	2016	2015
	\$	\$
Salaries	53,632,700	48,460,627
Salaries (Temp) & Wages	1,669,999	1,469,116
Clothing & Robing Allowance	44,460	44,460
Meal Allowance	300,685	279,932
Overtime	240,341	216,343
Staff Welfare	216,050	331,390
Health & Life Insurance	2,348,392	2,453,929
Pension Contribution	2,127,398	2,072,537
	<u>60,580,025</u>	<u>55,328,334</u>

14. TRAVELLING AND TRANSPORTATION

	2016	2015
	\$	\$
Motor Vehicle Allowances	8,861,243	7,183,571
Cab Fare	-	500
	<u>8,861,243</u>	<u>7,184,071</u>

15. PREMISES RELATED EXPENSES

	2016	2015
	\$	\$
Rental & Maintenance of Building	8,753,530	8,547,119
Other Rental	157,300	141,900
	<u>8,910,830</u>	<u>8,689,019</u>

16. PUBLIC UTILITIES

	2016	2015
	\$	\$
Electricity	1,626,960	1,919,608
Telephone & Fax	1,771,481	1,258,174
	<u>3,398,441</u>	<u>3,177,782</u>

Fair Trading Commission
Notes to the Financial Statements
For the year ended March 31, 2016

17. GOODS AND SERVICES

	2016	2015
	\$	\$
<i>Professional Services</i>		
Auditing	185,269	178,331
Advertising & Public Relation	1,556,308	1,091,395
Consultancy	96,820	15,000
Consulting (Legal Fees)	276,100	73,400
Stipend (Commissioners)	1,590,000	1,590,000
Privy Council Expenses	1,352,230	-
	<u>5,056,727</u>	<u>2,948,126</u>
<i>Office & General Expenses</i>		
Drugs & First Aid	11,548	14,214
Text & Reference Books	22,400	400
Food & Drink	147,307	261,840
Printing and Stationery	439,895	423,218
Postal & Cable	24,830	81,034
Subscriptions	94,321	79,818
Repairs & Maintenance	55,435	202,937
Computer Software Expenses	63,700	46,696
Insurance	206,973	189,108
Gift	4,439	8,500
GCT	1,083,027	450,740
	<u>2,153,875</u>	<u>1,758,505</u>
<i>Motor vehicle expenses</i>		
Petrol & Oil	218,959	241,017
Repair & Maintenance-Motor Vehicles	361,971	75,482
	<u>580,930</u>	<u>316,499</u>
<i>Miscellaneous Expenses</i>		
Cleaning & Sanitation, Gifts	188,798	149,602
Sundry Expenses	35,988	-
	<u>224,786</u>	<u>149,602</u>
Total Goods and Services	<u><u>8,016,318</u></u>	<u><u>5,172,732</u></u>

**Fair Trading Commission
Notes to the Financial Statements
For the year ended March 31, 2016**

18. BANK CHARGES

	2016	2015
	\$	\$
Sagikor US\$ Account	-	588
Sagikor JA\$ Account	112,308	114,346
	<u>112,308</u>	<u>114,934</u>

19. PROJECT EXPENDITURE

	2016	2015
	\$	\$
Competition Law Courses	1,432	262,966
	<u>1,432</u>	<u>262,966</u>