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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 January 1, 2024, to March 31, 2024.

FTC releases the 28th issue of its annual magazine

The FTC distributed the 2024 issue of its annual magazine, **Compete**, under the theme "Competition Policy as a Tool for Economic Growth". The 28th issue is a special edition to celebrate the FTC's 30 years of operation. In this special edition, **Compete** catalogues congratulatory messages from various individuals such as the Governor-General, the Prime Minister and the Minister of the Ministry of Investment, Industry, and Commerce (MIIC). Similarly, it highlights the FTC's journey over the 30 years. Additionally, the 28th issue showcases thought provoking articles from the public and private sectors expressing views on competition law and policy as a driver for economic growth.



Some of the articles, showcased in the issue are, "Evolution of the FTC and Competition Law Enforcement in Jamaica: A Synopsis" by Ann-Marie Grant, FTC General Manager, "The Scope for Greater Competition: Trends in Market Concentration levels in the Banking Sector, 2017-2023" by Carlton Thomas, FTC Competition Analyst, "So what's the point of competition law?" by Dr. Peter-John Gordon, Lecturer at the University of the West Indies, Mona Campus and former Chairman at the FTC, and "Fostering Economic Growth: the role of competition policy in Jamaica's special economic zone regime" by Britney Brown and Tion Smith of the Jamaica Special Economic Zone Authority.

Former Senior Legal Counsel at the FTC, Dr. Delroy Beckford elucidated the conditions under which the FTC may authorize otherwise anti-competitive conduct if there is demonstrable public benefit. His article is titled, “Authorization of anti-competitive conduct and public benefit under the Fair Competition Act”.

The 28th issue of Compete is available on the FTC website at www.iftc.gov.jm.

FTC participated in Norman Manley Law School Legal Aid Fair

The FTC participated in the Norman Manley Law School Legal Aid Fair centred around the theme “Let the Buyer be Aware”. As part of the fair, Ms. Michelle Phillips, a FTC Legal Officer delivered a lecture to law students on March 4, 2024. Her lecture covered several provisions within the Fair Competition Act (FCA), including tied selling, misleading advertising, and double ticketing. She also highlighted the recourse under the FCA, available to consumers.



FTC representatives engaging with stakeholders at the Norman Manley Law School Legal Aid Fair

Additionally, on March 6, the FTC hosted an information booth at the fair. During the days event, students and staff were engaged. Information on misleading representation, tied selling, double ticketing, sale at a bargain price, and sales above advertised price were distributed.

FTC participated in CCGI Panel on Governance Compliance Law and Fair Trading in the Caribbean



Mr. David Miller, Executive Director of the Jamaica Fair Trading Commission (FTC), participated as a panellist in the Caribbean Corporate Governance Institute discussion titled “Governance, Compliance & Fair Trading in the Caribbean” on March 13, 2024. In his presentation he highlighted the need for businesses to invest in a culture of competition law compliance, citing benefits such as avoiding financial penalties, reputational damage, and legal consequences. He also stressed the importance of effective governance, including knowledge of competition legislation, awareness of investigation

processes, and commitment to core values like objectivity and confidentiality.

In addition, Mr. Miller suggested practical measures for businesses to integrate competition law compliance into their governance agenda, such as assigning a senior officer to drive compliance, establishing a compliance committee, and providing regular training and communication to

employees. He urged boards to include competition law compliance in their roles and responsibilities, alongside other essential business management skills.

Businesses and trade associations may contact the FTC for guidance on corporate governance issues as it relates to competition law and policy.

FTC attended INDECOPI's workshop on Due Process and Procedural Safeguards in Competition Cases



Susan Lawrence-Simms, Senior Legal Counsel at the Jamaica Fair Trading Commission (R) and Krystle S. Maharaj, Senior Legal Counsel at the Trinidad & Tobago Fair Trading Commission (L)

Mrs. Susan Lawrence-Simms, Senior Legal Counsel at the FTC attended a three-day workshop in Lima, Peru, on due process and procedural safeguards in competition cases. The workshop was organized by Peru's National Institute for the Defence of Free Competition and the Protection of Intellectual Property (INDECOPI) in collaboration with the Organization for Economic Cooperation and Development (OECD).

The workshop explored how competition authorities can best exercise their evidence-gathering,

decision-making, and assessment powers in compliance with due process and procedural safeguards (e.g., the presumption of innocence, proportionality, the right to be heard, the protection of the legitimate expectations of the parties, and the exercise of judicial review). Additionally, the workshop emphasized the OECD's Recommendation on Transparency and Procedural Fairness in Competition Law Enforcement (2021).

Moreover, the workshop featured of five experts who covered areas such as transparency and predictability, gathering and managing information, investigation and right of defence, impartial review by administrative tribunal and judicial courts, and accessing leniency documents.



INTERNATIONAL COMPETITION NEWS

Mexico's Federal Economic Competition Commission identifies possible barriers to competition in retail e-commerce

An investigation carried out by the investigative authority within the Federal Economic Competition Commission (COFECE) has revealed that there is a lack of effective competition in the retail e-commerce market in Mexico. The preliminary report has highlighted the importance of the market in allowing small and medium-sized businesses to offer their products to a greater

number of consumers in light of there being an exponentially increasing number of customers who engage in e-commerce.

According to COFECE, there is a high concentration ratio within the retail e-commerce market. Likewise, there is a presence of network effects. Additionally, COFECE has determined that there are three possible barriers to competition that could be affecting the functioning of the market. The three main barriers identified by the authority are:

1. Artificial components in the loyalty programs within those marketplaces;
2. Absence of clarity in how offer management works within those marketplaces; and
3. Preference for their logistical solutions.

Furthermore, to eliminate these barriers, a series of corrective measures has been proposed by the commission to restore the conditions of effective competition in the market. The measures include:

- i. the disassociation of the marketplace service from other non-related “loyalty” services such as streaming services;
- ii. providing retailers clarity about the operation of the offer management algorithm within the platform being used; and
- iii. promoting user choice among logistic services suppliers.

The official preliminary report and press release can be found on the COFECE’s website.

Source: <https://www.cofece.mx/cofece-identifica-posibles-barreras-a-la-competencia-en-comercio-electronico-minorista/> – February 13, 2024