



Issue: 4-24 September 30, 2024



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.jftc.gov.jm.

In this Issue, we feature matters arising during the period July 1, 2024, to September 30, 2024.

FTC comments on Airports Charges Review

At the request of the Jamaica Civil Aviation Authority (JCAA), the FTC has submitted comments on the JCAA's Consultation Papers (QQ3) regarding the review of airport charges at Sangster International and Norman Manley International Airports. This consultation is part of the broader Airport Charges Review process aimed at determining the maximum allowable charges in various areas from January 1, 2026, to December 31, 2030. Other key stakeholders include PAC Kingston Airport Limited (PACKAL), the Airports Authority of Jamaica (AAJ), and the International Air Transport Association (IATA).



The airport services market has a significant impact on Jamaica's economy. While the sector is heavily regulated, competition policy plays a crucial role given the nature of competition between airports and its implications for consumers. Additionally, both airports are primarily managed by the same company, which heightens the importance of strong oversight to promote robust

competition and minimize consumer harm, particularly regarding service quality.

The FTC's comments covered several areas inclusive of: (a) Stakeholder engagement; (b) Form of regulation and rate setting; (c) Till regime; (d) Capital expenditure; (e) Operating expenditure; (f) Security costs; (g) Service quality regulation; and (h) Depreciation.

FTC participates in Consultation on Jamaica’s National Broadband Network (NBN)



The Government of Jamaica (GOJ) has engaged the International Finance Corporation (IFC) as its Lead Transaction Advisor to structure and implement an open-access, wholesale National Broadband Network (NBN), aimed at providing high-speed connectivity across the island.

In discussions with the IFC, the FTC outlined its oversight role in the telecommunications industry, which it performs under the Fair Competition Act (FCA) and through collaboration with the Office of

Utilities Regulation (OUR), Spectrum Management Authority (SMA), and the Broadcasting Commission of Jamaica (BCJ). The FTC also highlighted the challenges in achieving a sufficiently competitive market without an NBN. The absence of an NBN has led to limited or poor-quality service in many areas, especially in rural regions, affecting internet and cable television consumers.

The FTC expressed its support for the NBN and confirmed its participation in the process, emphasizing the importance of its involvement in policy and legislative development.

Modernizing Jamaica’s telecommunications infrastructure is critical for economic development. For many years, consumers in rural Jamaica have faced inadequate access to the internet and cable services, and the GOJ is focused on addressing these issues.

FTC completes another stage of its assessment of the Credit Reporting Market

The FTC has completed another stage in its assessment of the credit reporting market, exploring how the regulatory environment affects competition within the sector. This study primarily examines the Credit Reporting Act and the market’s role in promoting financial inclusion, given its integration with the broader credit services market.

The FTC’s main recommendations at this stage include: (i) mandating data reciprocity; (ii) enhancing regulatory clarity and efficiency; (iii) strengthening consumer protection measures; (iv) fostering innovation and monitoring market dynamics; (v) promoting financial inclusion; and (vi) bolstering data privacy and security.

Over the next three months, the FTC will engage with stakeholders—including credit bureaus, credit information providers, credit information users, and the Bank of Jamaica (BOJ)—to gather feedback.





The FTC weighs in on Request for Alteration of the CET on Paints & Coatings

In response to a request from the Ministry of Industry, Investment, and Commerce (MIIC), the FTC submitted its report on the Consultation concerning the proposed alteration of the Common External Tariff (CET) on paints and coatings. The FTC reviewed the Caribbean Private Sector Organization (CPSO) report and concluded that the only anticompetitive behaviour warranting concern is price

discrimination, though it is unlikely to pose a significant threat to competition within CARICOM.

The FTC also noted that while the proposed CET increase would benefit local paint producers in the seven CARICOM member states that manufacture paints, it could harm consumers and industries linked to the paints and coatings sector throughout the region. However, the net benefits of the proposed increase cannot be determined based solely on the CPSO's submission, as it lacks information on potential costs.

As such, the FTC recommended that the Council for Trade and Economic Development (COTED) assess the net benefits before deciding on any CET increase.

FTC launches investigation into the Reinforcing Steel Bar (rebar) Market

The FTC has commenced an investigation based on ARC Manufacturing Ltd.'s (ARC) complaint of abuse of dominance by the market leader Tank-Weld Metals Limited (TW). ARC alleges that TW's pricing strategy for reinforcing steel bars (rebars) constitutes an abuse of dominance and is in breach of the FCA. The companies are Jamaica's two largest suppliers of bulk building materials and the two sole suppliers of a range of steel products.



The allegation is being investigated pursuant to sections 19-21 of the Fair Competition Act, which prohibit conduct by dominant firms that leads to a substantial lessening of competition in the market.



INTERNATIONAL COMPETITION NEWS

US Justice Department Files Antitrust Lawsuit Against Visa for Monopolizing Debit Network Market

The U.S. Justice Department has filed a civil antitrust lawsuit against Visa, accusing the financial giant of monopolistic practices in the debit network market. The lawsuit charges Visa with violating Sections 1 and 2 of the Sherman Act by stifling competition and maintaining an unlawful monopoly over debit network transactions in the United States.

According to the complaint, Visa currently controls more than 60% of U.S. debit transactions, earning over \$7 billion annually in transaction fees. The Justice Department contends that Visa uses its dominant market position to insulate itself from competition through a series of exclusionary agreements with merchants, banks, and financial institutions. These agreements, the lawsuit alleges, penalize companies that attempt to route debit transactions through other networks, effectively locking out smaller competitors and newer, innovative payment systems.

The Justice Department alleges that Visa's actions harm consumers, not only by driving up costs but also by suppressing innovation. They contend that Visa has unlawfully amassed the power to extract fees that far exceed what it could charge in a competitive market. They further explained that merchants and banks often pass on Visa's inflated costs to consumers, impacting the price of everyday goods and services.

The lawsuit also highlights Visa's alleged strategy of coopting potential competitors by offering them lucrative incentives or threatening punitive fees, thereby discouraging the development of alternative payment networks. The complaint references internal Visa documents showing the company's fear of being displaced by new entrants to the market, such as fintech startups and technology companies.

They also emphasized the broader economic implications of Visa's conduct, stating that monopolistic practices by large corporations ultimately harm the American economy.

The Justice Department's lawsuit is the latest in a series of legal challenges faced by Visa, including a 2020 antitrust suit that blocked its attempted \$5.3 billion acquisition of fintech company Plaid.

Source: <https://www.justice.gov/opa/pr/justice-department-sues-visa-monopolizing-debit-markets> – September 24, 2024