

T T F T C

TRINIDAD AND TOBAGO FAIR TRADING COMMISSION

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Administrative Report

For The Financial Year Ended September 30, 2014

Chapter 1

Introduction and Background to the FTC

Competition policy was introduced in Trinidad and Tobago, as part of the efforts of successive governments to effect economic reforms and liberalization with the emphasis being on the need to place faith in the market with competition policy serving as a complement to other policies geared towards trade and market liberalization

The Fair Trading Act (“the Act”) was passed in 2006 and the FTC an independent Statutory Agency was established pursuant to the Act in 2014 as part of efforts to effect economic reforms with the emphasis being on the need to place faith in the market. Cabinet agreed in 2007 that a phased approach to the proclamation of the Act be adopted with Parts IV, V and VI of the Act being proclaimed to facilitate the appointment of the FTC Commissioners, the recruitment and retention of the Executive Director and key staff; the training of Commissioners and staff, the sourcing and outfitting of a venue for the FTC and the development of a public education campaign on the role and functions of the FTC. Subsequently in 2011, Cabinet approved the interim organizational structure of the FTC as set out in Chapter 2. Subsequently Part II of the Act which provides for the establishment of the FTC, its functions and powers and the offences related to the performance of these functions was proclaimed in 2012.

The FTC is the third competition agency established in the CARICOM region and is one of the more than one hundred competition agencies that are presently functioning globally. The FTC seeks to create and maintain a fairer Trinidad and Tobago for all which will be characterized by vigorous competition with the result being high quality goods and services being provided at competitive prices. The FTC prides itself in being a transparent and accountable agency that encourages the maintenance and promotion of free and fair competition in the conduct of business in Trinidad and Tobago.

The objectives of the FTC include:

1. Ensuring that all legitimate business enterprises have an equal opportunity to participate in the economy
2. Preventing anti-competitive conduct while at the same time complementing policies that promote competition
3. Raising awareness of the benefits of competition
4. Exhibiting a high level of integrity and intellect

When the Act is fully proclaimed and brought into force, the FTC will be able to take to court any business or individual who has been carrying on anti-competitive practices and has failed to take corrective measures. The courts can then:

- Prohibit the offending conduct
- Prohibit an agreement from being made or carried out
- Order that an agreement be modified or terminated

- Prohibit any specific conditions being attached to transactions
- Prohibit the acquisition of another company or impose appropriate conditions
- Impose fines (limited to 10% of annual turnover)

The FTC supports competition for the following reasons:

- Increased competition is an important way for businesses to grow to efficient sizes which, in turn, serves to reduce inefficiency
- Greater efficiency better enables businesses to compete in global markets, or to compete more effectively in their domestic markets because of the desire to keep ahead of rivals
- It brings about innovation, technological development and also promotes economic growth
- It stimulates businesses to increase their productivity and efficiency and thereby improve their market position
- It provides an incentive for businesses to perform at their best, leading to the production of a higher quality and a wider choice of goods and services at competitive prices.
- It encourages entrepreneurial activities and market entry
- It can work together with other complementary policies and strategies such as Industrial Policy and National Development Plans
- Competition law and policy are key instruments for addressing globalization, including enhancing trade and investment, resource mobilization, harnessing knowledge and reducing poverty

The FTC's vision is to be a transparent and accountable agency that encourages the maintenance and promotion of free and fair competition in the conduct of business in Trinidad and Tobago with the result being high quality goods and services being provided at competitive prices. The FTC's core values which are the inviolable set of principles and standards of conduct and performance necessary to achieve its vision and objectives are the following:

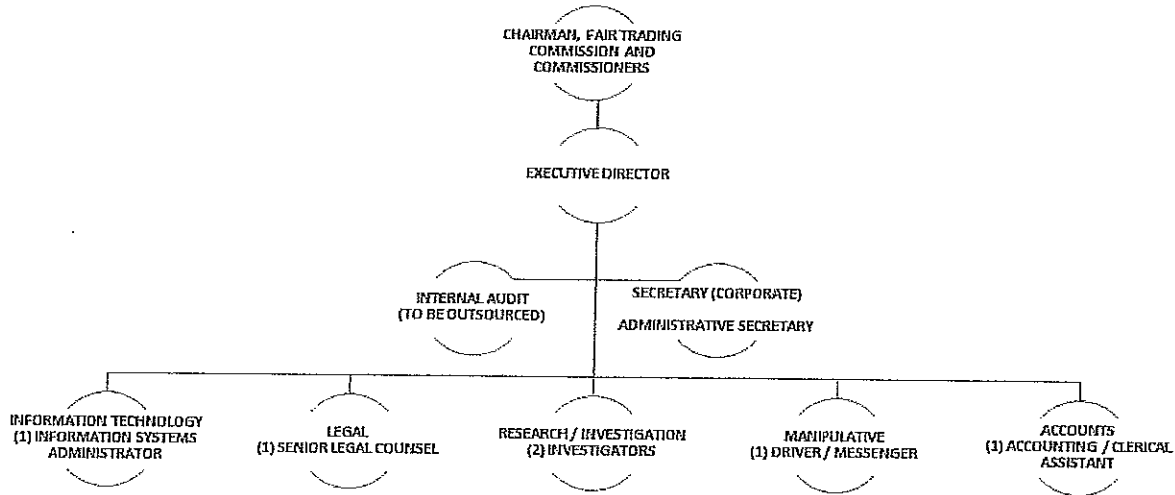
- Accountability
- Transparency
- Consistency
- Fairness
- Commitment

A properly established, resourced and staffed FTC should have a deterrent effect on anti-competitive conduct in Trinidad and Tobago leading to greater consumer savings and welfare. An effective FTC working in tandem with the Government's trade, investment and industrial policies is also crucial in developing a competitive business regime and stimulating innovation.

Chapter 2

Organizational Structure

In 2011, Cabinet approved the following interim organizational structure of the FTC:



This structure when staff are hired and trained will allow the FTC to fully carry out its functions under the Fair Trading Act and allow the FTC to pursue major policies and initiatives all of which will be stakeholder driven.

For the period under review, the FTC's Board of Commissioners ('the Board') comprised the following members:

Chairman- Justice Amrika Tiwary-Reddy (Retired)

Commissioner- Dr Ronald Ramkissoon

Commissioner- Dr Anne-Marie Mohammed (Regulated Industries Commission's representative).

Meetings of the FTC are held once per month with officials from the Ministry of Trade and Industry performing secretarial services.

The Board provides overall strategic direction to the FTC. In this regard, the Board may pass resolutions or grant approval to implement specific decisions to guide the FTC at a policy level and ensure that the FTC's goals and objectives are achieved. It also has the responsibility to ensure that managerial performance is reviewed on a timely basis and that corrective measures are implemented where required.

In terms of the payment of bills and other financial obligations, this is done directly through the Ministry with the checks being signed by the Permanent Secretary. The expectation is that the

FTC will directly receive funds from the Consolidated Fund through the Ministry after it becomes fully operationalized.

Chapter 3

Accomplishments

The FTC was faced with the challenge of attempting to undertake initiatives geared toward its establishment and full operationalization with a very lean staff and small budget. The budgetary allocation did not allow for the recruitment of a full complement of staff as outlined in the Cabinet approved organizational structure, Hence, in an effort to assist in the proper establishment of the Commission, staff in the Ministry have been instrumental in fulfilling core administrative, secretarial and accounting functions for the Commission.

Notwithstanding this, the FTC still has some achievements of which it can boast for 2014.

Accomplishments

- The Chairman and Commissioners were appointed on June 16, 2014 for a period of three (3) years by the President of Trinidad and Tobago
- Commissioners received training by officials of the CARICOM Competition Commission, September 25-26, 2014
- The position of Executive Director was advertised in the Daily Newspaper, candidates were shortlisted, interviews were held and psychometric tests were conducted.

Way Forward

Upon the full proclamation of the Act, the FTC will be ready to carry out its functions. Most notably, persons or businesses will be able to immediately access the services of the FTC as the FTC will be open to the public and be able to receive complaints and conduct investigations.

The FTC will be expected to undertake highly technical and complex investigations relating inter alia to collusion, price discrimination, exclusive dealing, excessive pricing, predatory pricing, tied selling, refusal to supply, group boycotts, price fixing and abuse of a dominant position.

The forthcoming year will see the FTC focus on the rationalisation of its Strategic Planning process and the hiring of staff while remaining a stakeholder focussed organization.

Chapter 4

Financial Operations

The FTC is funded through yearly subventions through the Government of Trinidad and Tobago through the Ministry. It should be noted that the FTC does not have its own bank account. Consequently, all unspent allocations are returned at the end of the fiscal year to the Consolidated Fund.

The development of the budget is based on the FTC's mandate, its expected operational expenditure and its goals and objectives projected for the fiscal year. It also takes into consideration, the actual income and expenditure from the previous year.

The development of the budget will be under the purview of the Executive Director. The formulated budget will be first reviewed and approved by the FTC's Board and then forwarded to the Corporation Sole and the Line Ministry for their further review.

In Fiscal year 2014, the Commission received a budget of Two Hundred and Sixty Two Thousand Dollars (\$262,000.00) which was used to pay Commissioner Fees and travelling allowances, advertise for vacant positions, training of Commissioners, and conduct psychometric testing for Executive Director Candidates.



REPORT OF THE AUDITOR GENERAL OF THE REPUBLIC OF TRINIDAD AND TOBAGO ON THE FINANCIAL STATEMENT OF THE FAIR TRADING COMMISSION FOR THE THREE MONTH PERIOD ENDED SEPTEMBER 30, 2014

Section 43 (2) of the Fair Trading Act, Chapter 81:13 requires the Auditor General to audit the accounts of the Fair Trading Commission. The accompanying financial statement of the Fair Trading Commission comprises a Statement of Income and Expenditure and Notes to the financial statement numbered 1 to 5.

MANAGEMENT'S RESPONSIBILITY FOR THE FINANCIAL STATEMENT

2. The management of the Fair Trading Commission is responsible for the preparation and fair presentation of the financial statement in accordance with the cash basis of accounting, and for such internal control as management determines is necessary to enable the preparation of financial statement that is free from material misstatement, whether due to fraud or error.

AUDITOR'S RESPONSIBILITY

3. The Auditor General's responsibility is to express an opinion on the financial statement based on the audit. The audit was conducted in accordance with auditing standards which require that ethical requirements be complied with and that the audit be planned and performed to obtain reasonable assurance about whether the financial statement is free from material misstatements.

4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatements of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

5. It is my view that the audit evidence obtained is sufficient and appropriate to provide a basis for the opinion.

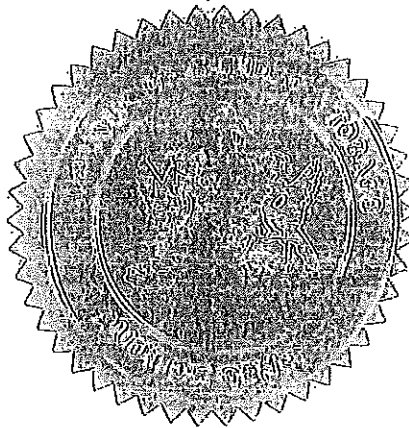
OPINION

6. In my opinion, the financial statement presents fairly, in all material respects, the financial performance of the Fair Trading Commission for the three month period ended September 30th 2014 and is in accordance with the basis of accounting at Note 2 to the financial statement.

SUBMISSION OF REPORT

7. This Report is being submitted to the Speaker of the House of Representatives, the President of the Senate and the Minister of Finance in accordance with the provisions of sections 116 and 119 of the Constitution of the Republic of Trinidad and Tobago.

14TH JULY, 2017
PORT OF SPAIN




MAJEED ALI
AUDITOR GENERAL

SS
20170714

FAIR TRADING COMMISSION
STATEMENT OF INCOME AND EXPENDITURE
FOR THE THREE MONTHS ENDED SEPTEMBER 30, 2014

INCOME	Note	TT\$	TT\$
Government Subvention	3	<u>262,000.00</u>	
TOTAL INCOME RECEIVED			262,000.00
 EXPENSES			
Commissioners' Fees and Travelling Allowance	4	36,000.00	
Advertisements for vacant positions	5	35,750.63	
Training of Commissioners		7,316.52	
Psychometric Testing for shortlisted Executive Director Candidates		<u>5,750.00</u>	
TOTAL EXPENSES			<u>84,817.15</u>
UNSPENT BALANCE			<u>177,182.85</u>

The Notes attached on pages 2 - 4 form an integral part of the financial statement.

Executive Director - Bevan Narinesingh

Bevan Narinesingh
Signature

20.11.2017
Date

Chair of the Fair Trading Commission

- Justice Amrika Tiwary-Reddy

DA Tiwary
Signature

20.1.17
Date

FAIR TRADING COMMISSION
NOTES TO THE FINANCIAL STATEMENTS
FOR THE THREE MONTHS ENDED SEPTEMBER 30, 2014

1. BUSINESS ACTIVITY

- (a) The Trinidad and Tobago Fair Trading Commission is an independent statutory body established pursuant to the Fair Trading Act, Chapter 81:13 ("the Act"). The Commission is responsible for implementing and administering the Act.

Its main purpose is to promote and maintain effective competition throughout the economy and to ensure that competition is not distorted, restricted or prevented.

The functions of the Commission are inter alia to—

- (a) carry out subject to Section 9, on its own initiative or at the request of any interested person such —
- (i) investigations in relation to the conduct of business, as will enable it to determine whether any enterprise is engaging in business practices in contravention of this Act and the extent of such practices; and
 - (ii) other investigations as may be requested by any interested person or as it may consider necessary or desirable in connection with matters falling within the provisions of this Act;
- (b) advise the Minister on such matters relating to the operation of this Act, as it thinks fit or as may be requested by the Minister; and
- (c) investigate on its own initiative or at the request of any person adversely affected and take such action as it considers necessary with respect to the abuse of a monopoly power by any enterprise.
- (b) The President appoints the Fair Trading Commission's Commissioners pursuant to Section 26 (3) of the Act. Commissioners are selected from among persons of proven competence and experience in the fields of law, economics, accountancy, business, management or other relevant professions. Three Commissioners were appointed by the President on June 16, 2014 for a period of three years. Under Section 31 of the Act, a Commissioner shall, in respect to his office be paid a remuneration and allowances as the President may determine.
- (c) The Commission was established under Section 4 of the Act for the purpose of performing such duties and functions as are conferred upon it by the Act and by any other written law and is a body corporate constituted in accordance with Part IV. The Commission commenced operations on July 1, 2014 and held the first Commissioners' meeting on July 31, 2014.

FAIR TRADING COMMISSION
NOTES TO THE FINANCIAL STATEMENTS
FOR THE THREE MONTHS ENDED SEPTEMBER 30, 2014

1. BUSINESS ACTIVITY (Continued)

- (d) In the financial period the Commission had no accounting staff. The Accounting functions were performed by the line Ministry (the Ministry of Trade and Industry).
- (e) The Commission under Section 35 (1) of the Act shall appoint for a term not exceeding five years on such terms and conditions as may be approved by the Minister, an Executive Director who shall be the Chief Executive Officer of the Commission.

The recruitment process for the Executive Director had concluded by the end of the financial year with the successful candidate expected to commence employment in the ensuing financial year.

2. ACCOUNTING POLICIES

The Financial Statement has been prepared using a Cash Basis of Accounting.

3. GOVERNMENT SUBVENTION

The Government Subvention for the Fair Trading Commission for the three months ended September 30, 2014 is TT\$262,000.00. The Ministry of Trade and Industry received the said sum under Current Transfers and Subsidies, Other Transfers, Fair Trading Commission Vote – 48/04/009/16. The Commission sought approval from the Permanent Secretary of the Ministry of Trade and Industry for releases from the Vote to meet the expenses of the Commission. This arrangement was necessary given that the Commission was not operational at the start of the financial year and no bank account was set up when the Commissioner commenced operation in July, 2014.

4. COMMISSIONERS' FEES AND TRAVELLING ALLOWANCE

The Fair Trading Commission is classified in Group B of the Board Fees and Allowances as determined by the Ministry of Finance and the Economy circular, with monthly fees and travelling allowance payable as follows:

Position	Fee \$	Travelling \$
Chairman	8,000.00	1,000.00
Deputy Chairman	6,000.00	750.00
Member	4,000.00	500.00

FAIR TRADING COMMISSION
NOTES TO THE FINANCIAL STATEMENTS
FOR THE THREE MONTHS ENDED SEPTEMBER 30, 2014

4. COMMISSIONERS' FEES AND TRAVELLING ALLOWANCE (Continued)

The Commissioners received their first fee and travelling allowance in the month of July, 2014.

Actual payments made were for July and August, 2014. Details are:

Position	Fee\$	Travelling Allowance\$	Total\$
Chairman	8,000.00 x 2 mths = 16,000.00	1,000.00 x 2 mths = 2,000.00	18,000.00
Members	4,000.00 x 2 mths x 2 Members = 16,000.00	500.00 x 2 mths x 2 Members = 2,000.00	18,000.00
TOTAL	32,000.00	4,000.00	36,000.00

5. ADVERTISEMENTS FOR VACANT POSITIONS

The position of Executive Director was advertised in the daily newspapers for a period of two (2) weeks commencing Sunday 27th July, 2014 to Sunday 10th August, 2014. The advertisement invited applications from suitable qualified persons to fill the post of Executive Director. The advertisement included a job summary; the key duties and responsibilities; experience and qualifications; skills and abilities; and the deadline for the receipt of applications as August 10, 2014.

Chapter 5

Human Resource Development Plan

The objective is to recruit and train staff in the areas of competition law and policy, industrial economics and forensic evidence gathering. All posts in the organization will be filled through a transparent process based on the following steps:

- (i) Advertising of vacancy in the daily newspapers
- (ii) Sorting through of applications based on criteria agreed to by the Board
- (iii) Conducting interviews of suitable candidates
- (iv) Make a selection based on the interview and evaluation process
- (v) Formally offer the post to the most suitable candidate

Persons who are shortlisted for senior positions are also required to complete either a psychometric test administered by an independent recruitment agency or submit a written essay on a relevant topic.

Furthermore, the FTC intends to develop proper Performance Measurement Tools subsequent to staff recruitment, which will guide staff reviews and assessment.

Advertisements were held for the position of Executive Director in July-August 2014, candidates were shortlisted, interviews were held and psychometric tests were conducted.

Chapter 6

Reporting Functions

- (a) When hired, the Executive Director is expected to produce a quarterly Statement of Proposed Expenditure based on the FTC's Annual Budget as agreed to by the Ministry of Finance. This quarterly statement will be used by the Executive Director to monitor and evaluate the FTC's financial performance at a glance. It will also be used to report to the Board and Line Ministry on the FTC's ability to meet operating expenses with available income and will help to guide requests for releases from the Ministry of Finance.
- (b) The following Reports are expected to be submitted to the Ministry and Parliament
- Summary of National Insurance Contributions (NI 187)
 - N.I.B. Statement of Contributions Due (NI 184)
 - Monthly Return of PAYE Tax & Health Surcharge Deductions
 - Monthly Income & Expenditure Report
 - Audited Financial Statements
 - Annual Budget
 - Administrative Report

Chapter 7

Procurement of Resources

Procurement of goods and services will be conducted in accordance with the Guidelines set forth in the State Performance Guidelines Manual.

It should be noted that there has not been any large scale procurement activity during the period in question.

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