THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
KANNU'S SUPERMARKET - 4
(Rep herein by Mr. S. Pillay)

CPA.INS.120613-3

Complainant – Fair Trading Commission
Respondent – Kannu's Supermarket - 4

QUORUM:
Mr. Colin Jean-Louis – Chairperson
Mrs. Jenna Thelermont – Commissioner
Mr. Victor Pool – Commissioner

For the Complainant
Mrs. Chantale Grange – Director for Legal Affairs (FTC)
Mr. Ziggy Adam – Legal Officer (FTC)
Ms. Nanet Bristol – Enforcement Officer (FTC)

For the Respondent
Mr. Pesi Pardiwalla – Attorney-At-Law
Mr. S. Pillay

RULING

[1]Pursuant to its powers under Section 33 (1)(j) of the Fair Trading Commission Act, 2009 the Fair Trading Commission conducted routine inspections of goods on the 12th of June, 2013 at the retail outlet Kannu's Supermarket – 4 of Anse-Etoile (See Exhibit 1). During this exercise, Kannu's Supermarket – 4 now respondent herein, was found to be in contravention of Section 20(1) of the Consumer Protection Act, 2010 by offering for sale a total of 1938 items without displaying a price in relation to those items (See Exhibit 1).

[2]A case against Kannu's Supermarket – 4 was heard before the Board of Commissioners on Wednesday 12th February, 2014. Mr. Ziggy, the Legal Officer from the Fair Trading Commission presented their findings to the Board. In his opening statements, Mr. Adam withdrew the Commission's contention of a breach of Section 72(5) of the Consumer Protection Act, 2010 relating to non-compliance and instead decided to proceed only with the contravention of Section 20(1) of the same Act which provides that *"... a retailer shall not display any goods for sale without displaying to the consumer a price in relation to those goods.'* The Commission prayed the Board to consider penalties set out in Section 67(1) of the Consumer Protection Act, 2010 while having regards to Section 67(3) of the same Act and enforces Section 68(1) of the Act where applicable.

[3]Mr. Pesi Padiwalla, Attorney-At-Law, represented the respondent. He did not deny the said contravention and opted to give an explanation on behalf of his client as to how and why the situation occurred. Counsel explained that his instructions are that the Managers had their employees immediately set right all these goods listed but at times things happen which are out of their control and they cannot rectify immediately. They are doing their best to put things right and there was no deliberate act to breaching the law or cheat customers. Counsel urged the Board to understand how the supermarket business operates and not to outright penalise his client. Counsel concluded that given that this is not a criminal offence the Board should give them a severe warning or a small fine.

[4]The Board of Commissioners deliberated on the matter and has considered all the circumstances of the case. Based on documentary evidence produced and the respondent not disputing the breach, the Board finds that the respondent, Kannu's Supermarket - 4, has contravened Section 20(1) of the Consumer Protection Act, 2010. In addition to the arguments of the Commission and mitigation of the respondent's counsel the Board of Commissioners having regards to Section 67(3) of the Consumer Protection Act, 2010, hence taking into account that the respondent is a first offender, has decided to enforce Section 68(1) of the Consumer Protection and hereby issues a strong warning to the respondent, Kannu's Supermarket – 4 with regards to the said contravention. Kannu's Supermarket -4 is ordered to immediately cease such prohibited conduct and to ensure compliance with the law. We rule accordingly.

[5]The parties are free to appeal against this ruling (See Section 44 of the Fair Trading Commission Act, 2009).

Pronounced by us on the 26th day of March, 2014.

Mr. Colin Jean-Louis
Chairperson

Mrs. Jenna Thelermont
Commissioner

Mr. Victor Pool
Commissioner