Fair Trading Commission
Seychelles

INSIDE THIS ISSUE...

NEW ADDITIONS TO THE FTC TEAM
5 New Staff members join us!
see page 2

CASES BEFORE THE BOARD OF COMMISSIONERS
1st SEMESTER 2013 & 2014
SCR312,000 imposed in Compensations
see page 4

LAW REVIEW SESSION WITH UNCTAD
FTC Staff assist consultants in law review session
see page 6

WHAT NEXT FOR FTC?
New Strategic Plan and 5th Anniversary
see page 8

"BE THE LEADING INSTITUTION IN THE PROTECTION OF CONSUMERS AND THE COMPETITION PROCESS FOR THE PROMOTION OF SOCIO-ECONOMIC WELFARE"

FTC NEWSLETTER

COME VISIT US AT: 3RD FLOOR, BLOCK B, UNITY HOUSE , VICTORIA

VOLUME 1, ISSUE 3

The CEO's Forward... Becoming an Efficient Law Enforcement Agency

MR. GEORGES TIRANT
Chief Executive Officer FTC

Dear Readers,

This edition of our newsletter brings to your attention the accomplishments and constraints of our organisation during the first semester of 2014. A major objective of FTC is to be an effective agency in the delivery of its mandates.

To this end, an important milestone for this period was the publication of FTC's 3 year Strategic Plan and the document was submitted to Minister Pierre Laporte, Minister for Finance, Trade and Investment. Our Strategic plan is a result of an important work carried out by personnel of FTC and it sets out a bold and striving vision, with the aim of positioning FTC as a leading institution in the protection of consumers and the competition process. The 7 core objectives of the Strategic Plan lays foundation for a higher performing authority.

To achieve the latter, a new organisational structure was designed and new officers were recruited to be part of the team. It is with great pleasure that we welcome our five new recruits- namely- Mr. Neddy Padayachy who joined FTC in January 2014, and whose public health background and qualification in leadership are key attributes that will enable him to head the Consumer Affairs Department.

"A major objective of FTC is to be an effective agency in the delivery of its mandates"

The department was also reinforced by the appointment of Ms. Naomi Louise as Compliance Officer. Furthermore FTC welcomes the IT Manager, Mr. Paul Savy. To increase officers in the Legal Department, Mr. Trevor Louise was recruited and last but not least, Ms. Karine Dick as a past law student of the University of Seychelles joined the investigative team. With her legal background, Karine will bring the equilibrium between economists and lawyers in the Investigation Department.

FTC also benefited from different workshops organised locally and internationally. I take the opportunity to express my gratitude to the Commissioner of the South African Competition Commission for the training on Cartels delivered by officers of the latter Commission in the Seychelles, this past April 2014.

We look forward to further training opportunities for FTC Staff, which will allow us to better our enforcement duties through effective mediation, investigation and assessment of both consumer and competition cases.

HAPPY READING!

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NEW ADDITIONS TO THE FTC TEAM

In January 2014, Mr. Neddy Padayachy was recruited as the Senior Compliance Officer to head the Department of Consumers Affairs Department. Prior to moving with the Commission he was employed by the Small Business Finance Agency (SBFA). February 2014 saw the recruitment of 2 new staff members. Mr. Paul Savy was recruited as the IT Manager. Mr. Savy was previously working at the Central Post Office. Additionally, Mr. Trevor Louise was recruited as Legal Officer. Mr. Louise is attached to the Legal and Policy Department. In March 2014, the Commission recruited Ms Naomi Louise- a teacher by profession to take the post of Compliance Officer within the Consumer Affairs Department. Finally, in June 2014 Ms Karine Dick was recruited in the Department of Investigation and Market Surveillance as Analyst. Ms Dick is a graduate from the University of Seychelles.

It is to be noted however, that March 2014 saw the resignation of an Administrative Officer and in May 2014, an analyst from the Inves tigation and Market Surveillance department resigned. The workforce of FTC at the end of June2014 consisted of 24 staff members.

Paul Savy

Trevor Louise

Karine Dick

Neddy Padayachy

Naomi Louise

INTERCONNECTION USAGE CHARGE REGULATION & PRICE REGULATION

Article Extract Contributed by:
Mr. Umar A. Sooltangos, Investigator at Competition Commission Mauritius

Disclaimer: The views expressed in this paper are solely those of the author in his private capacity and do not in any way represent the views of the Competition Commission of Mauritius, or any other entity of the Government of Mauritius. Neither the Competition Commission of Mauritius nor the Government of Mauritius endorses this paper or any views contained therein.

Expensive off-net calls – A fatality?

Jean noting down Marie's mobile phone after their first date: "Your prefix doesn't sound familiar. Are you with MonoTel or with DomiCell?" Marie: "DomiCell, why?" Jean: "Oh gosh, I'm with MonoTel. I should switch, but my friends are with MonoTel!" Marie: "Well, all my relatives are on DomiCell." Jean, thinking to himself: "Ouch...that's gonna be a hit on my pocket".

Like Jean, a vast majority of Mauritians are reluctant to make calls to other mobile network operators than the one with which they are, in a country with a mobile telephone penetration rate beyond 115%. Network-based price discrimination characterizes retail offers in the highly concentrated sector dominated by two players. A quick internet search will show that prepaid calls across mobile networks ('off-net calls') are three times as expensive as calls to the same network ('on-net calls').

In 2011, the statutory Information and Communication Technologies Authority tried to foster competitive pressure for a reduction in off-net calls tariffs by slashing down the cap on the interconnection usage charge ('IUC') i.e. the fee which the operator receiving the call is entitled to from the operator originating the call, for termination on its network – the process requires the physical linking of equipment belonging to the rival's network and ongoing monitoring.

Bearing in mind that maximum imposable IUC would represent at most 17% of the retail off-net tariffs currently practiced, it would seem that there is still room for competition and that price discrimination would be a deliberate practice in the mobile services sector, putting in question its impact on competition.

In theory , it can be demonstrated that network-based price discrimination can strengthen the market power of large operators by inducing the migration of regular interlocutors of a subscriber due to the strong disincentive of hefty off-net tariffs. Alarmingly, it can also be hypothetically shown that entry on the terms of lower-than-on-net non-discriminatory pricing by a third operator can be hindered through the introduction of preferred number calling offers by larger operators due to the dampened benefits of switching resulting from subsidized retail tariffs using revenue from IUC or increased exit costs to subscribers. Furthermore, tacit collusion on price discrimination may pose as a viable strategy to raise a rival entrant's IUC further deterring sustainable entry in an industry characterized by high fixed costs.

Jean's concern would therefore seem inadequately addressed by ex-ante IUC regulation and the question remains open on whether competition law enforcement could help remedy the potential effects of network-based price discrimination.

For access to the full article please visit:

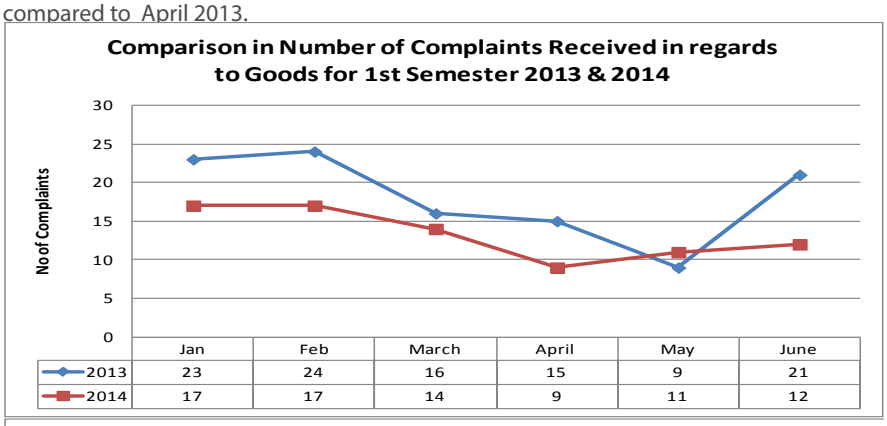
www.ftc.sc

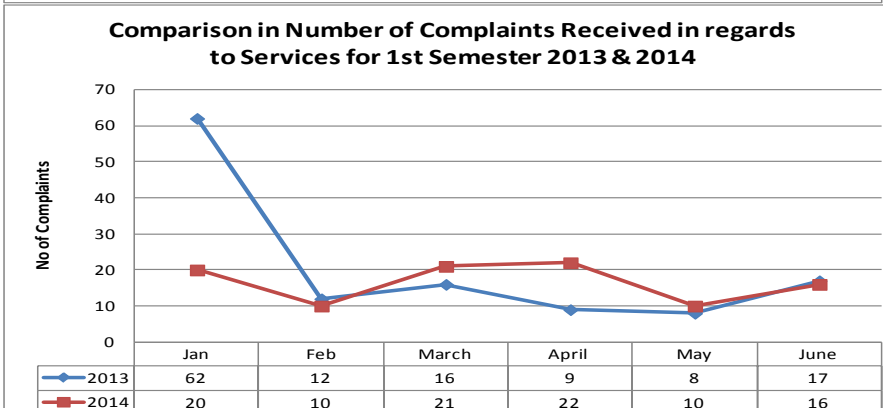
CONSUMER CASES RECORDED

THE FTC RECORDED A GRAND TOTAL OF 179 CONSUMER COMPLAINTS FROM JANUARY 2014 TO JUNE 2014.

Out of these 179 complaints, lodged during the first semester of 2014. 80 (44.7%) were related to goods whilst the remaining 99 (55.3%) were related to services. Compared to the same period in 2013 this shows a 26% decrease with regards to complaints pertaining to goods and 20% decrease with regards to complaints pertaining to services respectively.

The two graphs below show the trends in the number of complaints received per month for the same period for 2013 and 2014, firstly with regards to products then with regards to services. We can see that the month of January 2014 saw almost a 68% decrease in complaints on services compared to January 2013. On another hand, in April 2014 the Commission registered more than twice the number of complaints lodged for Services compared to April 2013.



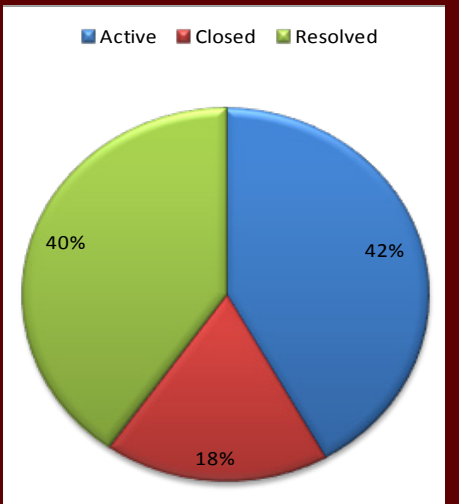


COMPLAINTS LODGED DURING THE 1ST SEMESTER OF 2014

Out of the 179 complaints recorded by the Commission January to June 2014, it is to be highlighted that 32 of these cases have been closed and 72 have been successfully resolved by the Commission.

The remaining 75 cases are still active.

The month of January saw the most number of complaints being recorded- being 37 complaints in total. However, this represents a 56.5 % decrease in the number of complaints received in the same period in 2013, where 85 complaints were recorded.



PREPARING TO SUBDIVIDE YOUR LAND? WHAT SHOULD YOU KNOW?

Year after year, on a daily basis, consumers worldwide make use of services available in various sectors of the market. Seychelles is no exception to this. Through the past 5 years of the Commissions' existence one of the most problematic sectors seems to be services provided by land surveyors.

The good news is that the Section 40 of the Consumer Protection Act, 2010 deals with issues regarding the standards for performance of services, and yes, you as a consumer can be assisted to address the many issues you are faced with when dealing with a surveyor.

However it is important to take note of the following tips:

1) Before seeking services from the supplier, in this case the for the surveyor's services, ensure that he has a valid license.

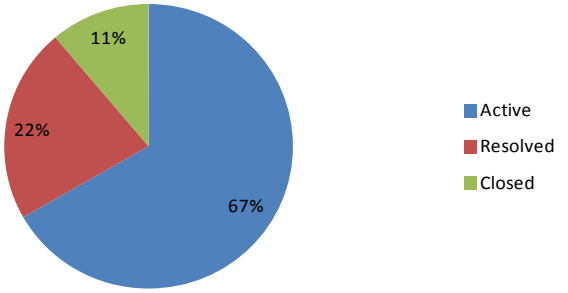
2) Become acquainted with the agent's background, do your research, ask around for works he has previously done and how the service was performed.

When a surveyor carries out any service for you, the surveyor shall ensure that he performs and completes that service in a timely manner, and in a quality that a person would generally expect. In the case where goods are required for performance of the service, the surveyor shall, use, deliver or install the goods- in this instance- beacons- free of defects. The surveyor is under a duty to notify you should he have any unavoidable delay in the performance of the service, and property or control over the property shall be returned to you in at least as good a condition as it was when you made it available to the surveyor for the purpose of supplying the service. Hence the property should not be in a worse off condition than when you made it available to your surveyor.

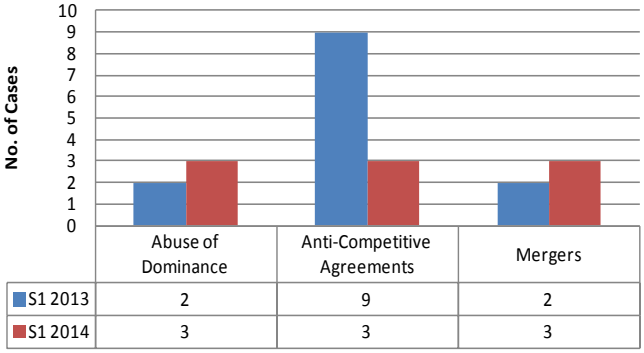
Do bear in mind that certain remedies do not apply where the failure of the surveyor to perform a service to the standards specified is due to the act or default of another person or to an accident or a cause beyond the control of the surveyor Hence if his delay is due to a person refusing him access through an adjacent land in order to access yours then he will not be liable. The same applies for services not performed due to Acts of God, that is all natural causes beyond the surveyor's control, such as rain.

STATUS OF COMPETITION COMPLAINTS LODGED DURING THE 1ST SEMESTER OF 2014

Status of Cases lodged in Semester 1 2014



Comparison of cases recorded in Semester 1, 2013 & Semester 1, 2014 acc. to Type of Breach



	Abuse of Dominance	Anti-Competitive Agreements	Mergers
S1 2013	2	9	2
S1 2014	3	3	3

During the first semester of 2014 the Commission recorded 9 new Competition cases, as compared to the same period in 2013 where 13 competition cases were recorded. This represents a decrease in cases of approximately 31 %.

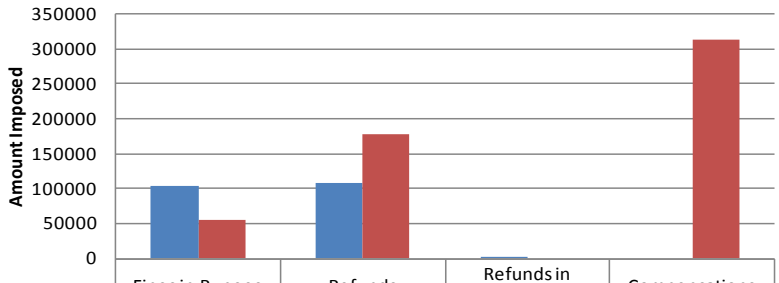
From the 9 cases recorded from January 2014 to June 2014, 2 have been resolved; 1 has been closed and 6 remain active. Out of these 9 new cases, 3 pertain to alleged abuse of dominance, 3 are in relation to mergers and 3 to anti-competitive agreements.

As of June 2014, the Commission was investigating a total of 14 cases. It is to be noted that approximately 43% of these cases pertain to Anti-Competitive Agreements.

CASES BEFORE THE BOARD OF COMMISSIONERS 1st SEMESTER 2013 & 2014

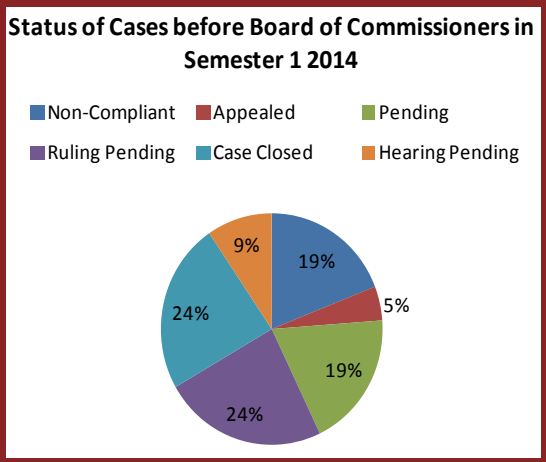
21 cases were filed before the Board of Commissioners in the 1st Semester of 2014, of which a total of 4 cases were found to be non-compliant to the Board of Commissioners' decision. Only 1 decision was appealed against and 2 cases remained to be heard.

Comparison in Fines, Refunds and Compensations in September 1, 2013 & Semester 1, 2014



	Fines in Rupees	Refunds	Refunds in Euros	Compensations
S1 2013	103000	107600	1400	0
S1 2014	55000	177417.5	0	312000

Status of Cases before Board of Commissioners in Semester 1 2014



Between January 2014 to June 2014 the Board of Commissioners imposed a total of SCR 55,000 in fines compared to a total of SCR 103,000 during the same period in 2013. This represents a reduction of over 46.6% in fines.

Moreover, from January 2014 to June 2014, the Board of Commissioners imposed a total of SCR 312,000 in compensations as opposed to the same period in 2013 where nocompensations were imposed,

FTC Staff & Stakeholders benefit from Training from Competition Commission South Africa (CCSA)

The objective of CCSA Team's visit to the Seychelles was twofold. Firstly, it was to broaden the Fair Trading Commission's Legal and Investigation Officers knowledge on Cartel investigation techniques and enforcement methods. This was done through 3 full day training sessions held from 31stMarch to 2nd April 2014. Officers were exposed to best practices and were also given the opportunity to work on case scenarios to apply investigative and enforcement skills shared by Mr. Anthony Ndzabandzaba- Principal Legal Analyst at CCSA and Mrs. Nelly Sakata- Principal Legal Counsel at CCSA. These sessions were also attended by members of the Board of Commissioners of the FTC. The sessions were very fruitful for our officers who obtained useful skills to better handle cases both at investigation and prosecution stage.

Secondly, a workshop was organized with the theme: 'Fighting Bid Rigging in Public Procurement' on 3rd and 4th April 2014 with key stakeholders. Amongst attendees were Procurement officials from different Governmental Departments; Officers from the Procurement Oversight Unit of Seychelles; the National Tender Board and National Treasury- amongst others. Points of discussion revolved around the Legal Framework dealing with Bid Rigging in Seychelles; Methods to detect Cartel and Bid Rigging cases as well as important criteria to consider in the procurement process- in order to minimise bid riggin (including sharing the S.African experience).

Workshop on Review of Merger Control Regime

Ms.Emily Mousbe, Legal Officer of the FTC attended a Regional Workshop on the Revision of the COMESA Merger Control Framework in South Africa, from 3rd to 4th April 2014. The workshop was organised by the COMESA Competition Commission (CCC) and in attendance were representatives from COMESA member states.

The main functions of the CCC are to prohibit, monitor and investigate anti-competitive practices, regulate mergers and other forms of acquisitions in the Common Market and mediate disputes between the Member States concerning anti-competitive conduct.

Amongst issues discussed were Legal and Procedural Elements of Merger Control in the COMESA region; Economic Elements of Merger Control; and the Current COMESA Merger Control Framework.

COMESA LAW REVIEW & NATIONAL COMPETITION POLICY

From May 26th – May 28th 2014, the Seychelles Fair Trading Commission (FTC) benefitted from the assistance of the COMESA Competition Commission (CCC), through a 3 day workshop, which permitted attendees to consider points of review of the FTC's laws. Having ratified the COMESA Treaty, this exercise was also primordial in ensuring the harmonization of FTC's laws with that of the COMESA Competition Regulations & Rules.

The COMESA Competition Commission delegation consisted of Mr. Lipimile, the Director and Chief Executive Officer of the COMESA Competition Commission, Ms. Gurure the Manager of Legal Services and Compliance and Mr. Vincent Nhkoma the Manager of Enforcement and Exemptions.

During the sessions, the participants comprising of stakeholders such as Ministry of Foreign Affairs, Policy Division of Ministry of Finance Trade & Investment and FTC staff deliberated on the various sections of the COMESA Competition Regulations with the aim of ensuring that the national law was compatible in application.

The delegation and participants also discussed the need for a national competition policy to guide the Fair Trading Commission in its enforcement of the competition law. It was expressed that a competition policy would attain the objectives of ensuring greater consumer benefits from the domestic market such as an improvement in the quality of goods and services at competitive prices as well as creates an environment which is conducive to foreign direct investment in the country.

With these aims in mind, the participants seized the opportunity to create a 'roadmap' providing FTC with a working timeframe for the completion of a National Competition Policy of Seychelles.

With the Fair Competition Act 2009 also being reviewed for amendments, a competition policy would comprise of the objectives that the Seychelles government sets to achieve in a given time frame and the laws in question will be the tools that will help government achieve these objectives, through the FTC.

LAW REVIEW SESSION WITH UNCTAD

From 23rd to 25th June 2014, the FTC received assistance from UNCTAD for a three day session in order to finalise the proposals for the amendments of the Fair Trading Commission Act, the Fair Competition Act and the Consumer Protection Act.

Mr Hassan Qaqaya, the head of the Competition and Consumer Division in UNCTAD and Dr Sothi Rachagan a Malaysian Consultant, met with the staff of the FTC to discuss the proposed amendments stemming from the Independent Review Report that had been formulated by UNCTAD on the laws and structure of the Commission.

The consultants guided the staff of the Commission through the type of laws currently being used in other jurisdictions and the alternative provisions that could be considered for the amendments. Most of the changes concentrated on the main operating act, the Fair Trading Commission Act in order to address the various issues of interpretation that have arisen.

FTC Staff & Consultants who participated in the law review session

Matters such as the adjudicative nature of the Board of Commissioners vs the need for an independent tribunal as well as the importance of securing an autonomous and independent Commission, was discussed at length. The powers of the Commission were also further detailed to ensure the Commission's capacity to enter into agreements with sector regulators to allow for smoother enforcement of the laws.

Deliberations on the Fair Competition Act covered the need to re align certain provisions due to unnecessary repetitions throughout the Act as well as ensure interpretations were in sync with international best practice. The Consumer Protection Act proposals brought forward matters such as the need for increased provisions on safety of goods and the need for increased penalties to deter service providers from faulting under the Act. The proposals were then presented to various stakeholders during a half day session where many comments were made on the proposals to be considered by FTC and UNCTAD when finalizing the amendment proposals. The FTC and UNCATD hopes to have the new laws drafted by early next year.

African Competition Forum – Investigative Skills Workshop

From May 28th – 29th 2014, one legal officer- Mr. Ziggy Adam and one analyst-Ms. Dolores Barrack, both of the FTC attended an Investigative Skills Workshop in Mauritius. Organised bt the African Competition Forum and facilitated by the United States Fedral Trade Commission, the workshop's main objectives were to develop investigative skills practice, improve analytical skills and ability to assess evidence.

Through this two day workshop the officers had the opportunity to learn how to prepare an investigation plan prior to engaging into the investigative process of gathering information and relevant evidence. In addition to this they also gathered broadened their knowledge with regards to different types of violations of competition law such as anti-competitive agreements, abuse of dominance and mergers. They also learnt how to conduct effective interviews through participation in hypothetical case studies..

FEEDBACK FROM COMPLAINANTS

MOSES CLARISSE

"I am satisfied with the service obtained from the Commission and wish that other people as well know about the services that you offer"

MR. MONNAIE

"I purchased a ferry ticket to La Digue, but due to medical reasons the person could not travel on the day. I was refused a refund. FTC asssisted me in getting back the sum paid."

MS. MARIE

"I bought a mobile phone but on the same day, noticed there was an issue with the screen. The shop promised a refund but ended up refusing to do so. Thanks to FTC I managed to get my full refund."

WORLD CONSUMER RIGHTS DAY 2014: "Fix our Phone Rights"

Pure FM radio programme

The Commission organised a variety of interactive activities engaging an understanding of consumer rights and responsibilities and spanning a relatively wide spectrum of ages. The FTC held fortnightly radio interactive sessions on Pure FM in regards to Consumers Protection Act 2010 and the theme for Consumers Rights Day "Fix our phone rights". Each staff from the Consumer Department had the chance to participate in these programmes.

News Extra

The CEO of FTC participated in a News Extra T.V programme about the World Consumer Rights Day. The CEO explained the meaning of this year's theme and the participation of FTC as the leading organization for such an occasion. He also seized the opportunity to educate the public on their rights and responsibilities in regards to mobile phone services.

FORUM WITH DICT & TELECOM OPERATORS

DICT and four telecom service providers came together in a forum on Thursday 13 March 2014 at the Care House at Freedom Square. The forum was hosted by the Fair Trading Commission (FTC) to commemorate the World Consumer Rights Day under the theme "Fix Our Phone Rights." The forum was assisted by the Chairman of the FTC's Board of Commissioners, in the presence of FTC's staff, the National Consumers Forum (NATCOF) and students from Secondary schools and Post-secondary Institutions.

Left:
Fair Trading Commission Staff on the Day of the Forum

The workshop's main aim was to bring together stakeholders to help understand the telecom sector and to know the services offered to consumers. It focused on the types of services provided by the service providers which are regulated by the Department of Information & Communications Technology (DICT). This forum gave our local telecom service providers and the DICT an opportunity to educate us on their services and on the challenges they are facing. Representatives of Cable & Wireless, Airtel, Kokonet and Intelvision each gave a brief presentation on their company, how they are structured as well as their services and products. Different issues raised by the consumers related to (amongst others) a lack of transparency in bills and contracts and the need to better respond to consumer complaints.

From this workshop, the FTC will develop consumer guidelines in collaboration with telecom providers and NATCOF with the aim of educating consumers on their rights on telecom goods and services.

FTC 'S NEW STRATEGIC PLAN

In its efforts to re-examine the goals set, review past actions and plan for future challenges the Fair Trading Commission embarked on a project with the aim of producing a comprehensive Strategic Plan. The new plan is to set priorities, organize efficient use of resources, strengthen operations, ensure that the Commission and other stakeholders are striving for common goals, whilst planning for intended outcomes and assess & adjust the organization's direction in response to a dynamic economic environment.

Mr. Gerard Albert from the Department of Public Administration was the consultant vested with the responsibility of ensuring that proper guidance, collection of relevant information & data and adequate brainstorming were duly performed. Consequently from July 2013 – May 2014, Mr. Albert conducted several meetings and workshops with the Management team and other employees of the Commission addressing several issues and performing specific exercises such as the SWOT and PESTLE analyses.

Towards the end of the consultation several challenges, deficiencies and strengths were identified through which 3 main outcomes were crafted; "to protect consumers from unfair business practices, to promote and maintain fair competition and to advance the Commission's performance through organisational, management and individual excellence". It was also paramount that ways and means of assessing the performance are clearly established in order to ensure that the desired results are achieved. This will ensure that the Commission remains accountable and transparent in its daily operations and in the way that given resources are employed in order to be effective and efficient in its progress.

On Tuesday the 24th of June 2014, the Chief Executive Officer formally presented the newly formulated Strategic Plan to Minister Pierre Laporte seeing that the Commission's parent Ministry is the Ministry of Finance, Trade and investment. He was accompanied by other representatives of the Commission and two consultants from UNCTAD namely Mr. Hassan Qaqaya and Dr. Sothi Rachagan who were present for the purpose of reviewing the Commission's current laws which is in sync with the new Strategic Plan.

The 3 year plan (2014 -2016) has for Mission and vision "Advocating and enforcing consumer rights and obligations whilst fostering a fair and competitive business environment in Seychelles" and "Be the leading institution in the protection of consumers and the competition process for the promotion of socio-economic welfare" respectively. The plan was well received by the Minister who commended the Commission for its already exemplary achievements.

WHAT NEXT FOR FTC?

It is only fair to say that the past 4 and ½ years have been somewhat eventful if not instrumental for the Fair Trading Commission. Challenges have been met, fears have been overcome and successes have been achieved. But one question remains, what is there next for the Commission? Have we now reached our destination, this epic milestone set from its inception? Does Seychelles know enough about Fair Trading Commission, its mandate, its capabilities, its laws?

Admittedly much has been done by means of advocacy and awareness since the establishment of the Commission. However, following the drafting of the new Strategic Plan for 2014 - 2016, pockets of under achievements have been identified. This in no way undermines the Commission's toils thus far, on the contrary such findings are consistent with reviews of any organization which has for chief aims continued innovation and relentless reinvention in a bid to surpass previously set targets. To such the Commission is therefore not an exception.

On the horizon, the Commission has a number of activities and goals for the coming months and years. A consumer guideline for the Telecommunication sector is in the drafting stages drawing from this year's Consumer day activities and thus forming part of the Commissions efforts to address issues surrounding that sector. This will enable better coordination between the regulator DICT, the telecommunications operators and the Commission itself concerning the role that each has to play to ensure better standards in the provision of efficient and effective services. Additionally a market surveillance plan is one of the many technical projects that will be set in full gear and its sustainability ensured as it is a crucial tool for the creation of a successful competitive culture.

Furthermore in exactly 4 months that is this November 2014, the Commission will be celebrating its 5th Anniversary. As is customary with other organizations in the Seychelles this event will be celebrated with much hype. An anniversary lecture, the official launching of FTC's website and facebook page and an exhibition are only a few of the numerous activities previewed for this significant occasion. The aim is simple, Fair Trading Commission should be seen as one of the vehicles propelling economic growth through a comprehensive competition policy and accruing the benefits thereof to the consumers at large.

At this junction it is noteworthy to mention that the latter will also coincide with the World Competition Day celebrated on the 5th of December. These are part of the impending targets of the Commission.

In terms of less imminent targets and in line with the Strategic plan Capacity Building is another project which features highly on the Commission's agenda as empowering the staff is the key to unlocking the vast potentials that are yet to be explored and maximized within the Commission

As a final note but not in the least bit exhaustive in the list of tasks and targets, the Commission is envisaging the completion of its law review in order to be at par with the Consumer and Competition laws practised across the globe. Special attention is being given to the Competition law as it also charged with the task of aligning with the COMESA competition regulations.

The completion and adoption of the Competition Policy is another tangible project which will be the ultimate crowning of the Commission's efforts to promote synergy between all stakeholders be it governmental or private entities. A Consumer Policy will not be a task that is unheard of at the Commission as it also features on the Commission's full but attainable agenda for the coming year.

DID YOU KNOW?

179

THIS WAS THE TOTAL NUMBER OF CONSUMER COMPLAINTS THAT THE COMMISSION RECORDED FROM JANUARY TO JUNE 2014

55% OF THESE COMPLAINTS PERTAINED TO SERVICES

48 COMPETITION CASES

SINCE ITS INCEPTION IN 2009, UP TO JUNE 2014 THE FTC HAS RECORDED A TOTAL OF 48 COMPETITION CASES. THIS REPRESENTA AVERAGE OF 10 CASES PER YEAR!.

SCR 312,000

THIS WAS THE TOTAL AMOUNT OF COMPENSATIONS IMPOSED ON BUSINESSES BY THE BOARD OF COMMISSIONERS BETWEEN JANUARY TO JUNE 2014

For more Information:
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