Fair Trading Commission
Seychelles

CHAMPIONING MARKET EFFICIENCY FOR CONSUMERS' SOCIO-ECONOMIC WELFARE

FTC NEWSLETTER

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

VOLUME 2, ISSUE 2

The CEO's Forward... Putting FTC at the forefront

MR. GEORGES TIRANT
Chief Executive Officer FTC

Dear Readers,

The Fair Trading Commission (FTC) wishes all stakeholders a blessed and prosperous New Year 2014.

FTC has been established by the Fair Trading Commission Act to "safeguard the interests of consumers, to monitor and investigate the conduct of business enterprises, to promote and maintain effective competition in the economy and for related matters."

For FTC to achieve its goals, the institution, both the investigative arm, under the responsibility of the Chief Executive Officer (CEO) and the adjudicative body, i.e. the Board of Commissioners (the Board) need to be transparent and accountable. It is paramount that the institution provides high level of professional services to both businesses and consumers.

In this edition, we wish to put in perspective the Board of Commissioners. FTC is now a well known agency. Many people know the work of FTC under the guidance of the CEO. However, in the administration of justice in respect of consumer protection and anti-competitive conducts, the Board plays a vital role by having powers to issue orders, directives and also to impose financial penalties on rogue traders.

"It is paramount that the institution provides high level of professional services to both businesses and consumers."

Furthermore, FTC strongly believes that it is vital to empower its staff, specifically officers investigating consumer complaints and anti-competitive conducts in the market. Several officers have been exposed to local and international training opportunities delivered by reputable institution. Consumer law and Competition laws are specialised area. Hence, FTC considers that to be at international best practices, its case handlers should have the opportunity to get international exposure. To this end, many officers were able to attend international workshops. Such exposure has enabled our staff to enhance their knowledge in the competition and consumer protection regime and to improve our service delivery.

Our newsletter provides an oversight on the FTC's operation, from the number of Competition and Consumer cases recorded to decisions of BOC and capacity building.

HAPPY READING!

OVERVIEW OF THE FTC

ESTABLISHMENT OF FTC

Established under Section 3(1) of the Fair Trading Commission Act (FTC Act), the Fair Trading Commission (FTC) constitutes of two main bodies. The first body is the Commission itself, which is considered as the Investigative arm under the supervision of the Chief Executive Officer. Its main responsibility is to investigate any infringement of the Fair Competition Act 2009 (FCA) and the Consumer Protection Act 2010(CPA).

The Board of Commissioners (Board) is the other important body in the administration of justice in respect of violations of laws enforced by the Commission. Also established under Section 3(1) of the FTC Act, the Board comprises of a Chairperson and four commissioners.

HISTORY OF THE BOARD

At the inception of the Commission in 2009, the President of the Republic appointed the first Board. Dr. Shelton Jolicoeur became the first Chairperson and Mr. Philippe Chong Seng, Mrs. Jenna Thelermont, Mrs. Dolly Tirant and Mrs. Annie Vidot were appointed as commissioners. The first Board paved the way towards a promising future for the FTC.

Late 2012, a new Board was appointed, with Mr. Collin Jean-Louis as the new Chairperson. Whilst Mr. Chong Seng and Mrs. Thelermont were reappointed, Mr. Michael Nalletamby and Mr. Victor Pool were appointed commissioners.

FUNCTIONS OF THE BOARD

The FTC Act gives the Board two main functions. Its first function is to oversee the administration of the Commission by the CEO. Their second mandate is to hear cases following non-compliance with the above mentioned laws. For such purpose, the Board is guided by the:

Principles of Natural Justice

Need for Fairness between the Parties

Need for expeditious Determination of the matter

BOARD DECISIONS

In 2012, the Commission submitted 22 consumer cases before the Board and the latter ordered that a total sum of SCR 299,607.50 be refunded to consumers whose rights had been violated and furthermore imposed fines amounting to SCR 173,295.40 on several traders who had been found to be carrying out unfair trade practices.

For the year 2013, 29 consumer cases were forwarded to the Board. Fines amounting to SCR 233,000 were imposed on businesses and the Board ordered that a total of SCR 276,600 be refunded to consumers.

NEW ADDITIONS TO THE FTC TEAM

As economic conditions evolve and the creaton of new businesses is on the rise so does the amount of goods and services that reach the Seychelles' market.

This inevitably means that the Commission's workload increases. In fact for the whole of 2013, we recorded 431 consumer complaints and 16 competition related complaints.

In order to accomodate for the increasing number of cases, on 1st July 2013, the Commission recruited two new staff members to fill the following posts:

- Ms Emily Mousbe as Legal Officer, in the Legal Department; and

- Ms Steffie Marie-Jeanne as Senior Office Assistant attached to the CEO's Office in the HR and Admin Section

Two more staff members got on board on the 01st October 2013.

- Mr Ziggy Adam as Legal Officer, in the Legal Department; and

- Mr Ted Camille the Driver Messenger/ Process Server, attached to both Admin and BOC Legal's Office.

However in November and December 2013, since its establishment in 2009 recorded for a 4th time staff turnover, with two directors leaving the Commission.; namely Mrs.Luciana Lagrenade who held the post of Director of Consumer Affairs and Ms. Juliette Dorizo who was the Director for Research and Policy.

The workforce of FTC at the end of 2013 was 21 staff.

Emily Mousbe

Ziggy Adam

Steffie Marie-Jeanne

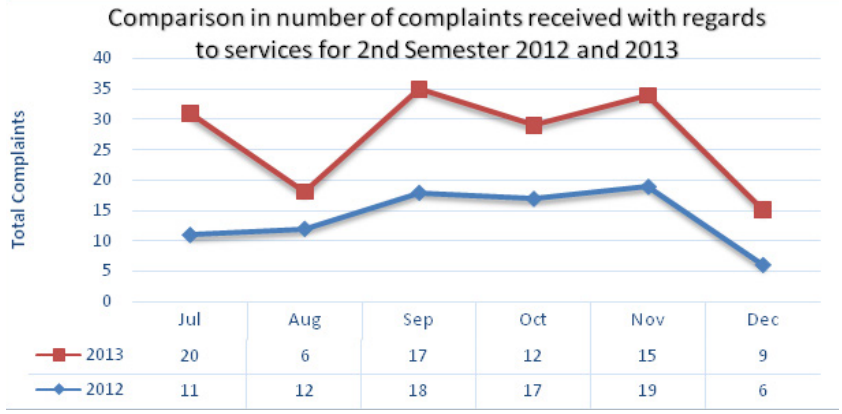
Ted Camille

CONSUMER CASES RECORDED

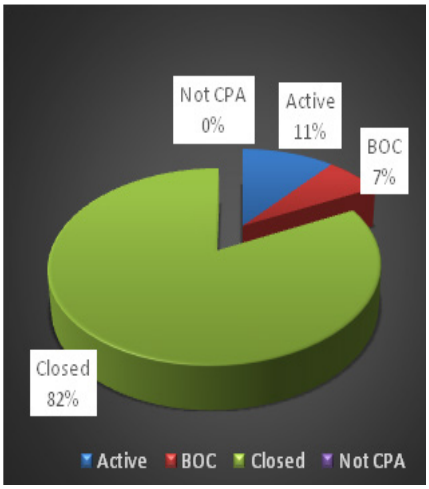
THE COMMISSION RECORDED A GRAND TOTAL OF 414 CONSUMER COMPLAINTS THROUGHOUT THE WHOLE OF 2013.

Out of this 185 complaints were lodged during the second semester of 2013.106 (57 %) was related to products whilst the remaining 79 (43%) was related to service, compared to 2012 this shows a 7% increase with regards to products and 7% decrease with regards to services respectively..

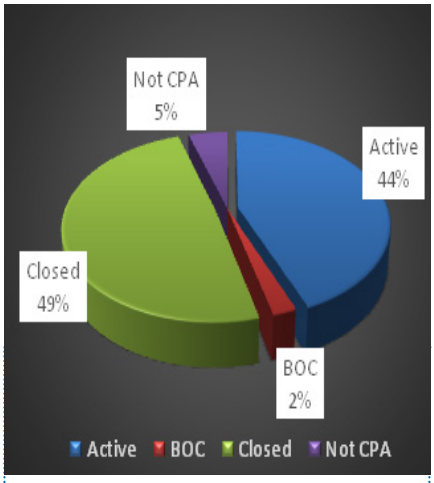
The two graphs below show the trends in the number of complaints received per month for the same period for2012 and 2013, firstly with regards to products then with regards to services. We can see that the trend is more or less constant except for the month of August in 2013 where complaints received with regards to products was twice the amount recorded in 2012.



Case status of complaints lodged 2nd Semester 2012

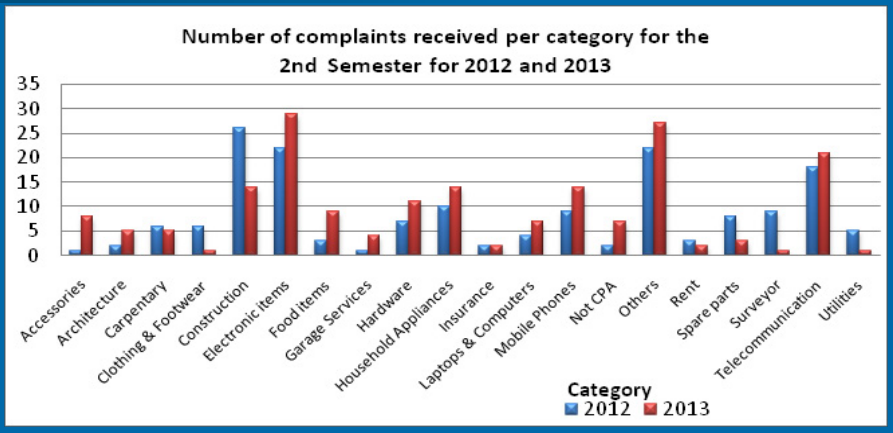


Case status of complaints lodged 2nd Semester 2013

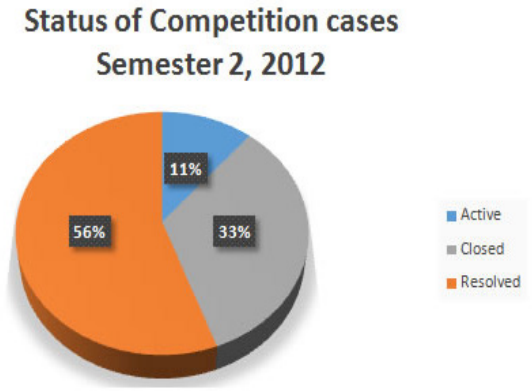


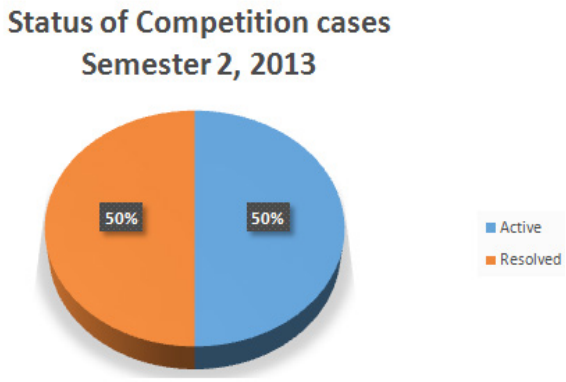
COMPLAINTS LODGED DURING THE 2ND SEMESTER OF 2012 & 2013 PER CATEGORY

There is trend in the categories of complaints recorded between the two years, notably in sectors such as Construction, Electronic items, Telecommunication, Mobile phones and Electronic appliances remain the major areas for concern. However note that the higher numbers in 2013 does not mean that the Commission is not attaining it's objectives. In fact it represents the public 's increasing awareness in regards to the existence and function of the Commission and hence they turn to us for a remedy.



STATUS OF COMPETITION COMPLAINTS LODGED DURING THE 2ND SEMESTER OF 2012 & 2013





During the second semester of 2012 the Commission recorded 9 new Competition cases, out of which 5 were resolved; 3 were closed and 1 remains active.

The Commission also recorded 3 merger notifications from COMESA which it approved following its satisfcation that there would be no impairment to competition in Seychelles following the respective mergers.

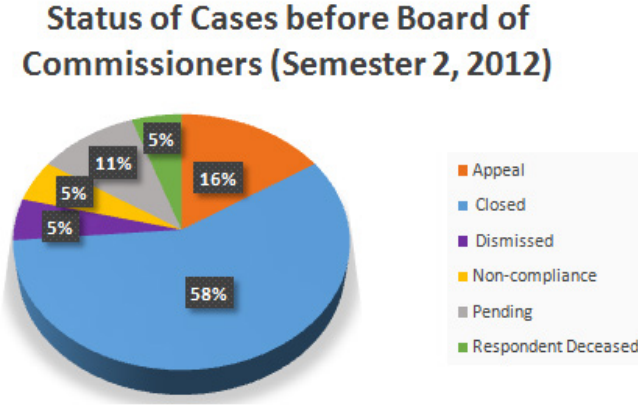
It is noteworthy that during the second half of 2013; 6 cases were recorded of which 3 have been resolved and 3 remain active.

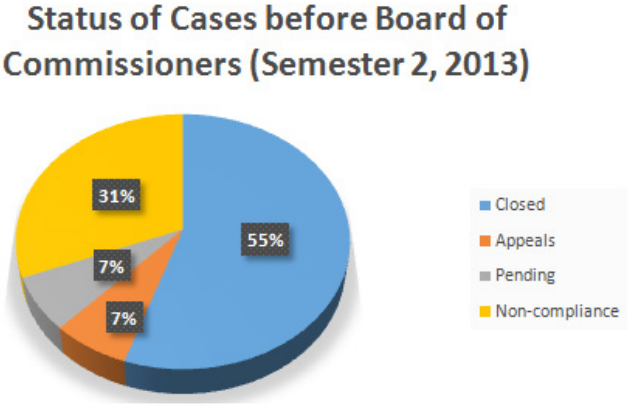
To highlight that most of the Competition cases recorded throughout 2012 and 2013 addressed abuse of dominance issues and anti-competitive agreements.

CASES BEFORE THE BOARD OF COMMISSIONERS 2nd SEMESTER 2012 & 2013

The Board of Commissioners heard 19 cases in the 2nd Semester of 2012, of which a total of 58% of cases were closed following the Board's decision and 16% of the decisions were appealed against before the Appeals Tribunal.

On the other hand, in the 2nd Semester of 2013, the Board of Commissioners heard a total of 29 cases. This represents a 53% increase compared to the same period as 2012, stated above. While the Board of Commissioners successfully rendered decisions and closed 55% of cases heard, it also, unfortunately recorded a total non-compliance rate of 31%. However, the number of decisions appealed against reduced to 7%.





INVESTIGATIVE TECHNIQUES FOR COMPETITION LAW

FTC conducted a training on the investigation and practical application of Competition law through the assistance of Mr Robert Lancorp and Mr Andre Brantz, both Competition Law Associates from Canada who have worked on significant cases at the Competition Bureau of Canada.

The training provided Sector regulators with a better understanding into the application of the Competition law and the investigation procedures of the Commission which would in turn facilitate cooperation, exchange of information and enforcement measures between the Commission and sector regulators when dealing with breaches of the Fair Competition Act 2009.

The training went through the various anticompetitive practices such as abuse of a dominant position by a business, conspiracies and collusive agreements between competitors and the calculation of market shares in merger cases enshrined in general competition law and allowed participants to gain an understanding of specific cases dealing with individual anticompetitive practices as well as gave participants the opportunity to query into sector specific issues.

WORKSHOP ON THE WORKING RELATIONSHIP BETWEEN COMESA COMPETITION COMMISSION

The regional workshop on the working relationship between the COMESA Competition Commission was held at the Cresta Golfview hotel in Lusaka, Zambia from 21st to 22nd August 2013. Representing the FTC of Seychelles was the Deputy CEO Mr. Francis Lebon and Ms. Burgitta Albest an analyst from the Research & Surveillance department. The COMESA Competition regulations were approved in 2004 and are left to be ratified and adopted by the 19 member states which are part of COMESA. The main objective of the workshop was to delve into the working relationship between the COMESA Competition Commission and national competition authorities and to develop a clear working mechanism to be followed in the implementation of the COMESA Competition Regulations. The workshop was also aimed at providing clarity on mergers and acquisitions precisely on notification process, threshold, fees, revenue sharing mechanism and so on.

Some of the elements of the COMESA competition regulations were also discussed and the issue of incorporating the COMESA treaty into the domestic laws so that the rights and duties contained in the treaty could be easily enforceable domestically by member states. During the workshop it was pointed out that there is a need to formulate an effective working relationship between COMESA Competition Commission and the Competition Authorities of member states.

FTC Attends IGE & signs MOU with Competition Commission of Mauritius

The FTC of Seychelles attended the 13th Session of Intergovernmental Group of Experts on Competition Law and Policy and the Ad Hoc Expert Meeting on Consumer Protection hosted by the United Nations Conference on Trade and Development, which took place from July 8th to July 12th in Geneva, Switzerland.

Mr Georges Tirant, the Chief Executive Officer and Ms Chantale Barallon, Director of Legal Affairs, participated in the discussions concerning the need for similar agencies to increase capacity building through reviews of the laws and through effective management of resources and prioritisation. Peer reviews of three countries demonstrated the need for Commissions who are mandated to enforce competition law to be independent in their administration and decision making in order to implement a successful Competition Policy.

The CEO was also nominated to act as vice Chairperson during the second half of the session on the revision of the United Nations Guidelines for Consumer Protection. FTC made a presentation during this ad hoc meeting on the effects and constraints that e-commerce is posing for African countries. FTC Seychelles has also been accepted into the working group for the redrafting of the UN guidelines.

In additions to the meeting, FTC Seychelles also took the opportunity to sign a Memorandum of Undertaking with the Competition Commission of Mauritius (CCM). During a side event on July 9th Mr Rajiv Servansingh, Vice Chairman of the CCM and Mr Tirant signed documents which will allow CCM and FTC Seychelles to exchange information and expertise in competition cases and exchange experience in the application of a competition policy.

ICN Workshop "Tackling Road Block to Effective Cartel Enforcement"

Three members from the Fair Trading Commission namely Mr. Francis Lebon (Deputy CEO), Ms Chantale Barallon (Director of Legal Affairs) and Mr Jude Bistoquet (Enforcement Officer) attended the 10th annual workshop of the International Competition Network (ICN) in South Africa with the theme "Tackling Road Block to Effective Cartel Enforcement"

The 3 day workshop was chaired by the Competition of South Africa Commission in the City of Cape Town from 15th to 18th October 2013

Discussions were focused on (amongst others): strategies to tackle road blocks to effective Cartel enforcement; barriers to effective cooperation and information sharing; alternative means of cartel detections (outside of leniency); case prioritization; challenges with digital evidence gathering; coping with lack of funding and resources and also difficulties in obtaining political support for competition regulation.

The workshop had also the aim of building the foundation of global cartel enforcement by highlighting previous Cartel working group product, including the Anti Cartel Enforcement Manual.

The International Competition Network (ICN) was created in October 2001 to improve worldwide cooperation and enhance convergence in competition policy through dialogue between competition authorities worldwide. As such, the ICN seeks input from its members in order to develop standards and best practices which can be applied consistently across a variety of jurisdictions. The Fair Trading Commission has been a member of the ICN following the past three years of its formation.

BID RIGGING WORKSHOP 26-27th June 2013

Dar-Es-Salaam, Tanzania

From 26th to 27th June 2013, a workshop was organized by the African Competition Forum (ACF) along with the Organisation for Economic Co-operation and Development (OECD based on 'Fighting Bid Rigging in Public Procurement'. The workshop was hosted by the Tanzania Fair Competition Commission, in Dar Es Salaam, Tanzania. The FTC was represented by Competition Analyst, Mrs. Cosette Moustache.

The workshop was centered around the increasing bid rigging cases in African states – which are impeding the power of purchasers- frequently national and local governments to obtain goods & services at the lowest possible price. Bid Rigging was described as any agreement (written or oral) between bidders that limits or reduces competition in a tender or the agreement may be between a bidder and a potential bidder that does not actually submit a bid. The common forms of bid-rigging were said to be cover bidding; bid suppression; bid rotation and market allocation.

FEEDBACK FROM COMPLAINANTS

ANGELLE GOBINE

"I would like to thank all staff of the Fair Trading Commission for their assistance to help me to get my refund for a defective item I had purchased"

AZIZ SYLLA

"I purchased a rice cooker and encountered several issues with it. I approached the Fair Trading Commission which helped me to get a replacement of the item after a repair did not solve the issue."

DORIS JAMES

"I had sought carpentry services for the crafting of a bed and the carpenter had failed to deliver the work in the time frame agreed on. The FTC helped me to get a full refund for his failure to deliver services. Thank you FTC!"

ADVOCACY IN 2013

BY MR.FRANCIS LEBON
Deputy CEO FTC

It is conventional wisdom that a competition agency must do more than simply enforce its country's competition law.

This is done through effective advocacy programs, to promote a competitive environment for economic activities and increasing public awareness on the benefits of competition.

We undertook many activities in 2013 comprising of adverts, publication and workshops with various stakeholders. All 3 main areas of the Fair Competition Act 2009 were covered. These activities contributed to develop, a competition culture, which is perhaps best characterized by the awareness of economic agents and the public at large about competition rules.

The Commission wishes to work in partnership with all stakeholders with the aim of creating a better understanding and enforcement of the Act. The Commission will continue its advocacy function in 2014 with more determination and commitment.

FTC PARTNERS WITH SCCI IN EDUCATING BUSINESS COMMUNITY

Educating the business community about the laws administered by the Fair Trading Commission remains one of our biggest challenges so far. With the aim of educating businesses in Seychelles about the provisions of the Fair Competition Act 2009 and the Consumer Protection Act 2010, the Commission joined forces with the Seychelles Chamber of Commerce and Industries.

An advocacy lecture was held on 1st August 2013 at the STC Conference Room.

The Staff of the Commission made several presentations and this was followed by a Question and Answer session.

Despite our best efforts however, the turnout for the lecture was below our expectations. This became a driving force behind our Awareness and Advocacy programe for the rest of the year- hence the great turnout for our World Competition Day Advocacy Session.

SEYCHELLES CHAMBER OF COMMERCE & INDUSTRY

WORLD COMPETITION DAY 2013... THE HIGHLIGHTS!

To commemorate World Competition Day on the 5th December 2013, the FTC organized two events:

POSTER COMPETITION- EDUCATING YOUNG CONSUMERS

The aim of the poster competition was to increase awareness of the role of the Commission in relation to consumer rights and the competition process in Seychelles.

The following themes were given according to school level namely; "My Consumer Rights" for P3 to P6 pupils and "Championing market efficiency for consumer's socio-economic welfare" for S1 to S5 students & Post Secondary students. The latter theme was to highlight the way in which good interaction between businesses in a fair and competitive market could benefit consumers with increased choices, reduced prices, better quality and accessibility of goods and services.

Proud Primary Students showing off their prizes at the Exhibition

ADVOCACY SESSION WITH STAKEHOLDERS- AN OUTSTANDING TURNOUT

An advocacy session with key stakeholders was also held at STC Conference room. With the theme "Fostering Fair Competition in Seychelles and enforcing the Fair Competition Act 2009", the Staff from the Competition Department conducted presentations about the Fair Competition Act 2009 of Seychelles and this was followed by an interactive Q&A session with attendees and the FTC CEO, Deputy CEO and Director of Legal Affairs. Present were the Principal Secretary for the Ministry of Trade and Finance Dr. Steve Fanny, as well as regulators and members from all sectors of the business community and law students from the University of Seychelles. The session touched upon both the theoretical and the practical aspect of the law to the participants.

Stakeholders & Participants attending the workshop

PLANS FOR 2014...

The Fair Trading Commission has come a long way since its inception in 2009. However, as the country's economic conditions change and consumer trends evolve- the Commission's workload not only increases but our cases also increase in complexity.

It is for this reason, amongst others, that for 2014 we are committed to strengthening all the departments under the FTC operation through recruitment of additional professional staffs mainly in investigation and legal units to reinforce our enforcement efforts.

Moreover, education is of the business community and the public at large is primordial for the Commission. Advocacy and awareness will be more focused and targeted in 2014. More workshops will be organized seeking maximum participation from stakeholders, especially authorities with whom we rely on for strong working relationships. This will also be achieved through the entering into MoU's with relevant stakeholders so as to facilitate the exchange of information and ensure speedy remedy for cases.

Additionally, we will continuously develop international networks with other jurisdictions and important bodies so as to place FTC at the fore front of consumer and competition practices.

Capacity building is a priority for our officers- as well as the sharpening and increased use of their mediation skills to solve cases at early stages. On another note, with the recruitment an I.T Manager, we seek to develop methods and tools to integrate Information Technology in our daily operations for increased efficiency, optimum record keeping and database management.

It is also our intention to start the development of a market surveillance program to monitor important sectors for any indication of anti-competitive practices.

One thing is clear though, the year 2014 is a very promising one for the FTC and we look forward to facing the challenges ahead.

DID YOU KNOW?

414

THIS WAS THE TOTAL NUMBER OF CONSUMER COMPLAINTS THAT THE COMMISSION RECORDED IN THE WHOLE OF 2013.

THIS REPRESENTS A 35% INCREASE COMPARED TO COMPLAINTS RECORDED IN 2012.

5 YEARS...SOON!

ESTABLISHED IN 2009, THE FTC WILL CELEBRATE ITS 5 YEAR ANNIVERSARY ON 3RD NOVEMBER 2014

SCR 233,000

THIS WAS THE TOTAL AMOUNT OF FINES IMPOSED ON BUSINESSES BY THE BOARD OF COMMISSIONERS DURING THE YEAR 2013.

For more Information:
Visit our website at
www.ftc.sc
Call (+248) 4 325250
Fax: (+248) 4325240
Email: info@ftc.sc

KNOW YOUR CONSUMERS RIGHTS & RESPONSIBILITIES

- *RIGHT TO SAFETY
- *RIGHT TO GOODS OF ACCEPTABLE QUALITY
- *RESPONSIBILITY TO MAKE WISE CHOICES
- *RESPONSIBILITY TO EXERCISE CAUTION
- *RIGHT TO REDRESS & FAIR TREATMENT
- *RIGHT TO CHOOSE
- *RESPONSIBILITY TO SEEK INFORMATION
- *RIGHT TO COMPETENT & TIMELY SERVICE
- *RIGHT TO BE INFORMED