

2016



"...to promote and maintain fair competition within the CARICOM Community for the enhancement of economic efficiency and consumer welfare."

CARICOM COMPETITION COMMISSION

QUARTERLY REPORT

APRIL – JUNE 2016



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FOREWORD

This report highlights the work of the CARICOM Competition Commission (Commission) for the **second quarter of 2016**, in the areas of competition law and policy, and consumer welfare and protection of consumer interests in the CSME. The work of the Commission is guided by the Commission's mandate under Chapter VIII of the Revised Treaty of Chaguaramas (RTC). Consequently, the document is structured to highlight the relevant provisions within the RTC under which each activity falls.

Competition Law and Policy

The Commission launched an investigation into the Cable and Wireless (CWC) Agreement to Acquire Columbus in the Member States of the Organisation of Eastern Caribbean States (OECS). The Commission expects to complete the investigation within 120 working days as required under Article 175.6 (b) of the Revised Treaty Chaguaramas.

The Commission completed 10 of the 13 sensitisation workshops in Competition Law in the Member States, which is being funded under the 10th EDF Project for “*Capacity Building to Support the Effective Implementation of the CARIFORUM-EU Economic Partnership Agreement.*” To date, a total of 326 participants have benefitted from the sensitisation workshops, and the Commission expects to complete the capacity building exercise in all CARICOM Member States by the end of 2016. Additionally, in May 2016, the Commission, along with the Jamaica Fair Trading Commission (JFTC) and the Organisation for Economic Cooperation and Development (OECD) provided support for Level 2 training in Competition Law to representatives from the Bahamas, Barbados, Jamaica and Trinidad and Tobago. The Commission will also provide support for the delivery of Level 2 training in Competition Law in Suriname during the fourth quarter of 2016.

Market research into the beverage sector in the CSME continues, and the relevant reports will be finalised and published on the Commission's website by the third quarter of 2016.

In the area of international cooperation, the Commission collaborated with the World Bank Group and the Regional Competition Center of Latin America, in the development of a Regional Comparative Study on the Regulatory Frameworks for Competition Policy in Latin America and the Caribbean. The Commission also commenced discussions with the International Competition Network (ICN) regarding a web and social media strategy for agency effectiveness.

Consumer Welfare and Protection of Consumer Interests

In furthering the consumer protection agenda of the region, the Commission continued to collaborate with the CARICOM Secretariat CSME Unit, Government Consumer Officials and National Consumer NGOs, specifically in the areas of support for government and consumer NGO organisation, and cross-border consumer enforcement.

The Commission takes this opportunity to encourage national competition and consumer authorities in CARICOM to submit articles of interest for future publication. For information on how your work can be featured in one of our future quarterly reports kindly contact admin@ccc.sr

SECTION A: COMPETITION LAW AND POLICY

1. *Article 173(1) (a) – “apply the rules of competition in respect of anti-competitive cross-border business conduct”*

(A) *ALL MEMBER STATES*

CCC LAUNCHES INVESTIGATION INTO CWC AGREEMENT TO ACQUIRE COLUMBUS

In the second quarter of 2016, the Commission launched an investigation into the impact of the Cable and Wireless (CWC) Agreement to Acquire Columbus in the Member States of the OECS, and as required by Article 175.6 of the RTC, the Commission has notified the Council on Trade and Economic Development (COTED), CWC and the relevant national sector regulators in the OECS Member States.

The Commission is expected to be complete the investigation within 120 working days as set out under Article 175.6 (b) of the RTC.

2. *Article 173(1) (b) – “promote and protect competition in the Community and co-ordinate the implementation of the Community Competition Policy;”*

(A) *CARIFORUM SECRETARIAT EPA IMPLEMENTATION UNIT 10TH EDF PROJECT*

“CAPACITY BUILDING WITHIN THE CARIFORUM IN THE AREAS OF COMPETITION, PUBLIC PROCUREMENT, AND CUSTOMS AND TRADE FACILITATION IN SUPPORT OF THE IMPLEMENTATION OF THE CARIFORUM-EU ECONOMIC PARTNERSHIP AGREEMENT (EPA)” PROJECT

EPA Capacity Building Level 1 Sensitisation in Competition Law

Under the EPA Capacity Building Project, competition experts from the Commission were selected to deliver Level 1 Training in Competition Law in 13 Member States of CARICOM.

The experts Mr. Rommell Hippolyte and Mr. Barry Headley have now completed sensitisation workshops in 10 Member States of the Community at the end of June 2016, viz. Antigua and Barbuda, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, and Suriname.



From right: Mrs. Bertha Isidore, Executive Director (Acting), CARICOM Competition Commission; The Hon. Sieglien Bureson, Minister of Trade and Industry, Suriname; and Mr. Rommell Hippolyte, competition expert from the CARICOM Competition Commission at the Sensitisation Workshop in Suriname held on 13 April 2016

To date, a total of 326 participants have benefitted from the sensitisation workshops held in the 10 Member States of CARICOM. There was strong representation from public sector ministries, and statutory agencies with regulatory functions in the Member States. Whilst participation from the private sector remains low in most jurisdictions, representatives have comprised large to small entities, agri-business, manufacturing, retailing and the services sector in all Member States. Notwithstanding the overall low rate of participation from the business community, representatives were actively engaged in the sessions, and exhibited a strong desire to learn more about anti-competitive behaviours that could negatively impact on the success of their businesses.



Belize Sensitisation Workshop, 03 June 2016 – Participants from Directorate of Foreign Trade of Belize and Mr. Barry Headley, competition expert from the CARICOM Competition Commission

The Question and Answer sessions were frank and interactive. They involved a vibrant exchange of opinions, factual information, and practical experiences relating to competition law enforcement, which was new to most participants. Some of the more heavily discussed topics were:

- Similarities and differences between competition and trade policy
- Enforcement mechanism for competition law at the national and regional levels
- Judicial arrangements for competition law enforcement – timeliness for completion of competition cases by NCAs, and decision making by Commissioners and the judiciary
- Adequate funding for NCAs and the Commission
- Education programmes for competition law and policy

- Role of sector regulators and the application of sector rules in a manner that encourages competition in an economic sector
- Role of NGOs, media, and other community actors in monitoring anti-competitive business conduct

The evaluation results indicated that the seminar was well received in all Member States, and achieved the learning objectives set out in the Level 1 Training Manual.

EPA Capacity Building Level 2 Sensitisation in Competition Law

The Commission lent its support to the Level 2 Competition Workshop held in Trinidad and Tobago from 2-6 May 2016. The Workshop saw the active participation of representatives from the Bahamas, Barbados, Jamaica and Trinidad and Tobago, from statutory and regulatory agencies in finance and utilities regulation, business associations, academia (UWI Cave Hill and UWI Mona), and the judiciary.

Support to Dr. Taimoon Stewart who conducted the Level 2 Training, also came from the Jamaica Fair Trading Commission, and Professor Frederic Jenny of the OECD Competition Forum via video link.

For many participants, this was their first exposure to Competition Law and Policy. Overall, the participants indicated that the Level 2 Training was very timely and a great learning experience.

“CONSULTANCY TO STRENGTHEN CSME REGULATORY AND MARKET REGIMES PROJECT”

(B) ALL MEMBER STATES

MARKET RESEARCH INTO THE BEVERAGE SECTOR IN THE CSME

The deadline for submission of responses to the online questionnaire into the beverage sector was extended to June 2016, due to the low response rates from some Member States.

This extension allowed for additional responses to be collected, and the Commission hopes to publish the results of the research in the third quarter of 2016.

- EXAMINATION OF THE DETERMINANTS OF BEER CONSUMPTION AND CONSUMER REACTION TO CHANGES IN BEER PRICES IN THE CSME

The report on the consumer beer survey which ended in December 2015 is expected to be completed and published on the Commission's website in the third quarter of 2016.

The Commission was assisted in the compilation of the information received by the Barbados Fair Trading Commission (BFTC).

- APPLICATION OF PRICE TESTS TO DELINEATE THE RELEVANT PRODUCT MARKET FOR BEER IN THE CSME

Research on the application of price tests to define the relevant product for beer in the CSME, using Barbados as a case study is being refined. The final version of the paper will be completed and published on the Commission's website in the third quarter of 2016.

- SURVEY OF THE VIEWS OF BEVERAGE COMPANIES IN THE CSME

The objective of the survey is to obtain feedback from beverage companies in the region on overlapping markets and products which are close substitutes. This will enable the Commission to gain a better understanding of the beverage sector in the CSME, given the major acquisitions which occurred in the industry in Barbados and Jamaica during 2015. These included the purchase of Banks Holdings Limited of Barbados by SLU beverages Limited a subsidiary of AmBev/CND group of companies registered in St. Lucia. This survey will be launched in the third quarter of 2016 given the difficulties experienced in receiving consumer response data.

(C) GUYANA

Support to Guyana Competition and Consumer Affairs Commission (CCAC)

The Commission continues to liaise with the Guyana CCAC regarding possible transfer cases of a cross-border nature to the Commission. The "Draft Guidelines for National Competition Authorities on Referring Cross- Border Cases" which was prepared by the Commission, is being used to facilitate this process.

(D) INTERNATIONAL COOPERATION

- **Commission collaborates with the World Bank Group and Regional Competition Center for Latin America**

As part of its advocacy and monitoring efforts, the Commission collaborated with the World Bank Group and the Regional Competition Center for Latin America (CRCAL), in the development of a Regional Comparative Study on the Regulatory Frameworks for Competition Policy in Latin America and the Caribbean. The purpose of the study is to strengthen competition policy in Latin America and Caribbean.

The study is based on a standardized questionnaire, with input from the consultants and the NCAs in Barbados and Trinidad and Tobago. The two NCAs were invited to contribute to the study where information was either missing or not publicly available.

- **International Competition Network**

As a member of the Agency Effectiveness Working Group of the International Competition Network (ICN), the Commission will be participating in a project on **Agency communication: web & social media strategy and use**, during the period 2016-2017.

The objective of the project is to examine how competition agencies communicate externally via social media and their websites; the value of using these tools; and the common, useful components of agency websites. The project will include survey of agencies practices, as well as a written work product informed by member input.

This project is timely for the Commission as it seeks to expand, monitor and measure the impact of its advocacy efforts in the areas of competition law and policy, and consumer protection and welfare, and ultimately develop policy in the use of social media in these areas.

The link below contains a presentation which was made by the Commission to the Latin American Competition Forum in 2015, about the traditional ways in which the Commission's advocacy efforts have been executed and measured:

[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/LACF\(2015\)3&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/LACF(2015)3&docLanguage=En)

SECTION B: CONSUMER WELFARE AND PROTECTION OF CONSUMER INTERESTS

3. *Article 186 – “provide support in the promotion of consumer welfare and protection of consumer interests”.*

(A) SUPPORT TO MEMBER STATES

SECOND REGULAR MEETING OF CARICOM CONSUMER OFFICIALS

This was the first occasion on which both National Consumer NGOs and National Consumer Protection Agencies (NCPAs) were able to meet for the Regular Session online.

The session was convened in a spirit of cooperation and respect with the objective of working together to enhance the consumer protection framework in the CSME.

- The meeting discussed the outcomes of the Needs Assessment study which is one of the deliverables expected under the project. Member States gave a commitment to meet the timeline for submitting information, in order to receive assistance before the project is concluded. Consumer NGOs were apprised of the need meet certain institutional criteria in order to be considered eligible for funding under the 10th EDF programme.
- The training programme for Member States in Consumer Protection, CARREX and Competition Law and Policy was completed in all Member States by the end of June 2016.
- Comments were received from the Consumer Affairs Commission Jamaica and the CARICOM Regional Organisation for Standards and Quality (CROSQ) on the draft Cooperation Agreement circulated to the forum. The other Member States and organisations were urged to submit their comments by **20th June 2016**. However, given that comments were not received by the stated deadline, a further extension was granted to the end of July 2016, and these comments will be incorporated and resubmitted to the forum for further consideration.

FOURTH MEETING OF CONSUMER OFFICIALS, 30 JUNE 2016

The Fourth Meeting of Consumer Officials was convened by the Commission, to review the progress on two issues which were brought to the attention of consumer officials of CARICOM Member States viz. the Draft Consumer Cooperation Agreement for the Enforcement of Cross-Border Consumer Matters, and the Consumer Enforcement Manual.

1. DRAFT CONSUMER COOPERATION AGREEMENT FOR THE ENFORCEMENT OF CROSS-BORDER CONSUMER MATTERS

The meeting was apprised of the fact that efforts are ongoing to operationalize the proposal on the “*Enforcement of Cross-border Consumer Matters*” which was submitted for the consideration of the Thirty-Ninth meeting of COTED in November 2014. Having completed the consultation process with Member States in 2015, the Commission drafted and circulated a Cooperation Agreement (“the Agreement”) for the consideration of national consumer protection agencies in the CSME in March 2016.

An amended Agreement which incorporates additional responses from the Consumer Affairs Department in Suriname, the Consumer Affairs Commission Jamaica, and the CARICOM Regional Organisation for Standards and Quality (CROSQ), will be further discussed at a meeting of Consumer Officials scheduled for the third quarter of 2016. Stakeholders expect to finalise the Agreement for submission to the Forty-Third Meeting of COTED in November 2016, for consideration and approval.

2. CONSUMER ENFORCEMENT MANUAL

One of the initiatives being pursued by the Consumer Research Working Group is the development of a Consumer Protection Enforcement Manual. The manual is expected to reflect a CARICOM perspective on practices and methods used to facilitate consumer redress, and will draw upon best practices from all Member States.

Initial discussions have resulted in the creation of a draft Table of Contents (ToC) for the manual. Individual/groups in Member States will assume responsibility for writing the supporting text for their chosen subject area/theme. Once the ToC is finalised by the Member States, work will commence by the organisations assigned to each theme on creating the content. The first draft of the Manual is scheduled to be completed by the end of the third quarter of 2016.