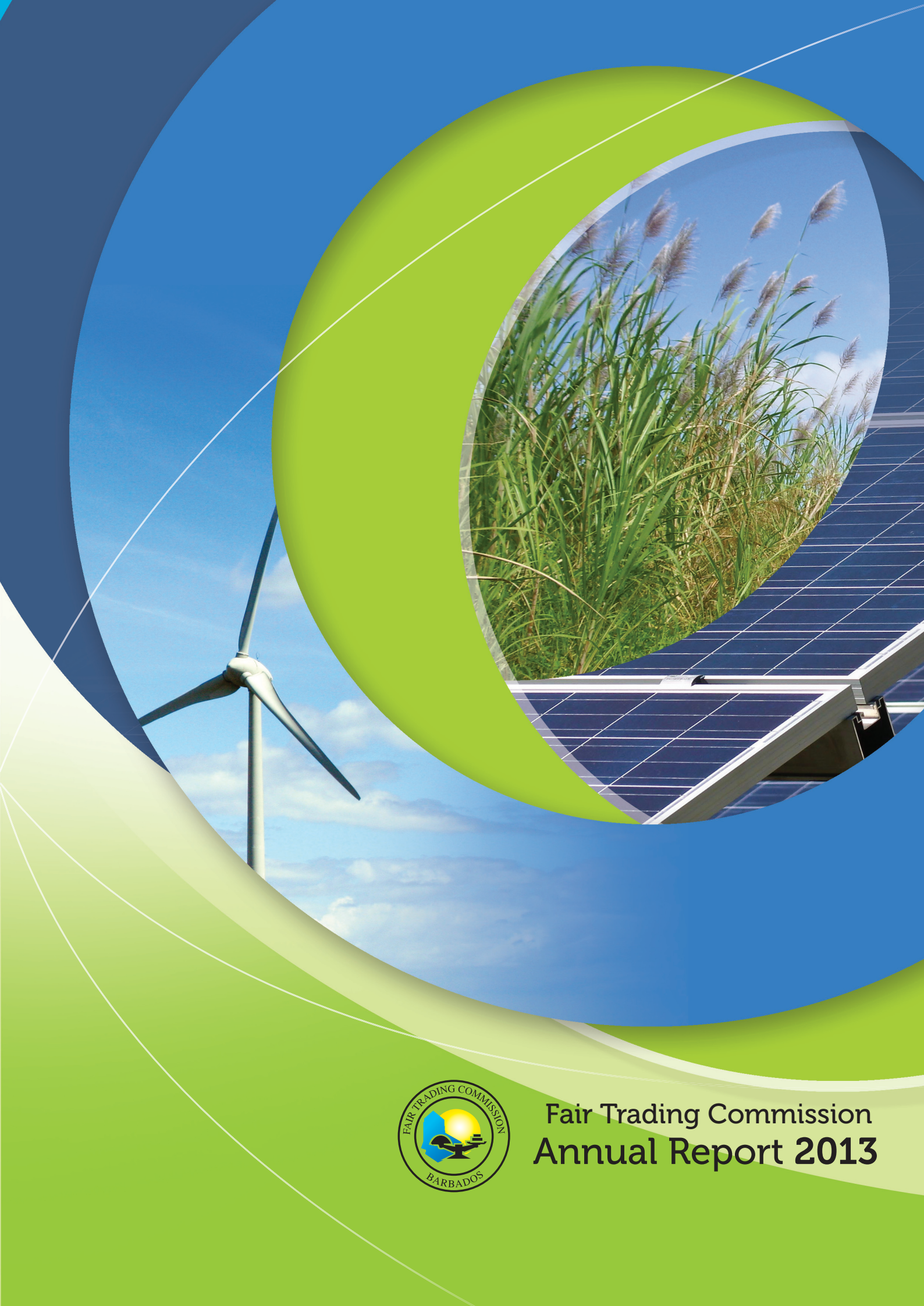




Fair Trading Commission Annual Report 2013

2013 ANNUAL REPORT

FAIR TRADING COMMISSION





Letter of Transmittal

Fair Trading Commission
Good Hope
Green Hill
St. Michael

July 17, 2013

Dear Minister:

In accordance with Section 22 of the Fair Trading Commission Act, CAP.326B, Laws of Barbados, I have the honour to submit to you the Commission's Annual Accounts for the year ended March 31, 2013 as certified by the external auditors in accordance with Section 21 of the Act, together with the Operational Report for the same period.

Yours faithfully,



Neville V. Nicholls
Chairman

The Hon. Donville Inniss, MP
Minister of Industry, International Business,
Commerce and Small Business Development
Reef Road
Fontabelle
St. Michael



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Message from the Chairman

During the year under review (April 2012 to March 2013) the Commission, as in previous years, was kept busy dealing with a number of important regulatory, fair competition and consumer protection issues. In addition, the Commission held five administrative meetings and convened 13 panel meetings to hear and determine matters relating to utility regulation, fair competition and consumer protection.

In view of consumer complaints suggesting that certain banking and interest charges were unjustified, and appeared to be the result of collusive practices by the commercial banks, the Commission undertook its own investigation looking specifically at the quantum of the charges, the frequency of their increases, the timing of their implementation, similarity and other information to determine if the charges were being driven by anti-competitive trading practices. However, the Commission found no evidence of collusive practices.

The Commission also undertook an extensive review of the Standard Form Contracts used by commercial banks with the aim of ensuring that any Unfair Contract Terms were removed from these contracts. Of the 1,291 terms examined for fairness under the Consumer Protection Act (CPA), 56 were found to be in contravention of the Act. By March 31, 2013 three of the five banks had already made changes to comply with the CPA. The Commission is working with the remaining banks to ensure full compliance.

After completion of its investigation into banking charges and the fairness of standard form contracts used by banks, the Commission met with commercial bankers and their representatives to discuss its findings and recommendations.

In April 2012, the Commission embarked on a formal review of the Fuel Clause Adjustment (FCA) which is administered by the Barbados Light & Power Company Limited (BL&P) and engaged a consulting firm to undertake this review. The consultant's report formed the basis for the public consultation on this matter in October 2012. The Commission is expected to issue its report in April, 2013.

The Commission also issued a Consultation Paper on the BL&P's Renewable Energy Rider (RER) in order to obtain feedback on the company's proposal to adopt the RER as a permanent programme with amended terms and conditions. The consultation period ran from November 23 to December 14, 2012, with an extension to February 15, 2013.

The Commission continued its extensive educational programme which encompassed programmes tailored to the needs of businesses and their associations and included the Annual Competition Law and Policy Workshop. In addition, the Commission's structured programme of visits to primary and secondary schools to explain the benefits of the CPA was intensified and the schedule of articles in all print and online newspapers sustained.

I take this opportunity to thank Mr. Trevor Welch who served as a Commissioner from 2004 to 2011, and Mr. Gregory Hinkson for his service from 2009 to 2012. I extend a warm welcome to Ms. Herma Griffith-Ifill and Dr. Philmore Alleyne, who joined the Commission. I also wish to convey my appreciation and thanks to my fellow Commissioners for their support and to the management and staff for their consistent efforts during the year.



Neville V. Nicholls
Chairman

Members of the Commission 2012 - 2013



FROM LEFT: Mr. Andrew Willoughby, Mr. Alfred Knight, Mr. Kendrid Sargeant, Ms. Monique Taitt, Dr. Philmore Alleyne, Chairman Sir Neville Nicholls, Mr. Andrew Brathwaite, Deputy Chairman Professor Andrew Downes, Mr. Errol Humphrey, Mr. Gregory Hazzard and Ms. Herma E. Griffith-Ifill.

The eleven (11) Commissioners of the Fair Trading Commission are appointed by the Minister of Industry, International Business, Commerce and Small Business Development. They are vested with the responsibility, inter alia, for adjudicating on regulatory applications, making determinations, issuing orders and initiating prosecutions. The Chief Executive Officer is an ex-officio member of the Commission.

During the period April, 2012 - March, 2013 the Commission held five (5) administrative meetings.

Regulatory panels consisting of up to five (5) members hear and determine matters relating to utility regulation. There is also a Fair Competition/Consumer Protection panel which assesses competition and consumer protection issues and makes recommendations to the Commission. During the reporting period, thirteen (13) panel meetings were convened.

Fair Trading Commission at a Glance

Role of the Commission

The Fair Trading Commission was established on January 02, 2001 to

“Safeguard the interests of consumers, to regulate utility services supplied by service providers, to monitor and investigate the conduct of service providers and business enterprises, to promote and maintain effective competition in the economy and for related matters.”

The laws enforced by the Commission are

- Fair Trading Commission Act, CAP.326B
- Utilities Regulation Act, CAP.282
- Consumer Protection Act, CAP.326D
- Fair Competition Act, CAP.326C
- Certain provisions of the Telecommunications Act, CAP.282B

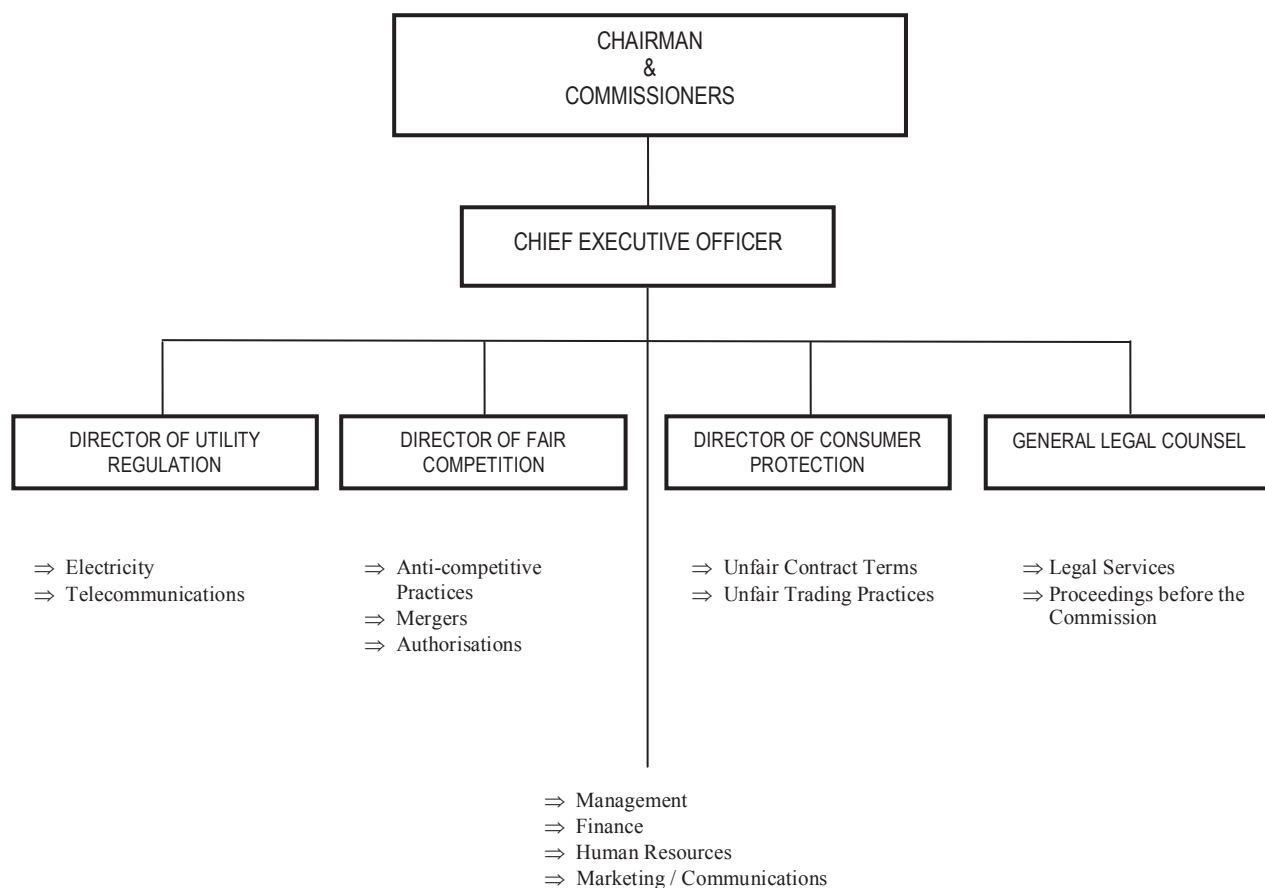
The Commission's goals are

- Ensuring the efficient and safe provision of regulated utility services at reasonable rates;
- Safeguarding the interest of consumers;
- Promoting and encouraging fair competition;
- Identifying human resource and operational initiatives in order to strengthen the organisational and productive capabilities of the Commission.

Organisational Structure

The Chief Executive Officer is responsible to the Commission for the administration of the legislation under the purview of the Commission and for the supervision of staff and the work programme of the Commission. Statutory provision is made for the appointment of Directors to carry out the Commission's mandate namely utility regulation, fair competition and consumer protection. The General Legal Counsel and staff provide legal advice to the Commission on all aspects of the Commission's work including hearings and development of regulations, as well as appeals and reviews. Commission staff provide a range of services to assist Commissioners in adjudicatory matters.

Organisational Structure





The Year in Review

Utility Regulation

The electricity service supplied by the Barbados Light & Power Company Limited (BL&P) and the domestic and international voice telecommunications services, interconnection services and leased services provided by Cable & Wireless (Barbados) Limited (C&W) are regulated by the Fair Trading Commission.

As the regulator of these services, the Commission seeks to ensure that high quality, efficient and reliable service is provided to the Barbadian public at reasonable prices. The responsibilities of the Utility Regulation Division are defined in the Utilities Regulation Act Cap.282 and include establishing the principles for setting rates, determining the applicable standards of service and undertaking periodic review of rates, principles for setting rates and standards of service. The Commission is also responsible for promoting the development of a competitive telecommunications market. Certain provisions of the Telecommunications Act fall under the authority of the Commission.

Both the electricity sector and the telecommunications sector are undergoing reform. The Commission has had ongoing consultation with the Government as one of the stakeholders in the revision of the electricity legislation and the development of a National Sustainable Energy Policy.

Electricity

Integrated Resource Plan (IRP)

The BL&P submitted to the Commission at the end of March an IRP which will guide the resource plans of the BL&P for the next 25 years. The Commission approved the terms of reference for the development of the IRP but was not actively involved in its development, as the Commission is required to review and approve the document.

An IRP by its nature is intended to go beyond the typical least cost expansion plan to allow for consideration of energy efficiency measures, cogeneration and renewable energy resources. The process also takes account of system diversity, stability, reliability and other risk factors and addresses issues both on the supply and demand side. This document is being assessed.

National Sustainable Energy Policy

Over the past year, the Commission had discussions with the Ministry of Energy and Telecommunications on the draft National Sustainable Energy Policy. This policy deals with the development of renewable energy capacity both at the utility scale and distributed scale. In facilitating its objectives, and as indicated in the draft National Sustainable Energy Policy, the Commission's role within the energy sector is likely to be expanded to include, but is not limited to, the formulation of mechanisms to foster the establishment of independent power producers, approval of the grid code and approval of power purchase agreements.

Pilot Programmes

The public response to the three BL&P Pilot Programmes - Renewable Energy Rider (RER), Interruptible Service Rider (ISR) and Time-of-Use (TOU) Tariff – has been varied. At the end of March 2013, a total of 95 customers had subscribed to the RER with over two million kWh being sold to the grid. Participation in the ISR increased from five to six. Similarly, the number of customers opting for the TOU Tariff did not increase above the nine customers of the previous year. The pilot programmes ended in June 2012.

Utility Regulation (continued)

The BL&P submitted a report on its performance which contained recommendations on the future of the programmes. The Commission agreed to the BL&P's requests for an extension of the ISR and TOU programmes under the existing conditions until the end of 2013 and the end of September 2013 respectively. The BL&P requested that the RER be made permanent with amended terms and conditions. The Commission determined that stakeholder discussion and comment on these terms and conditions was necessary prior to reaching a position. As such, on November 23, 2012 a consultation paper was issued to obtain the public's views. The Commission also convened a forum which gave members of the public the opportunity to present their views directly to the Electricity Panel.

Fuel Clause Adjustment

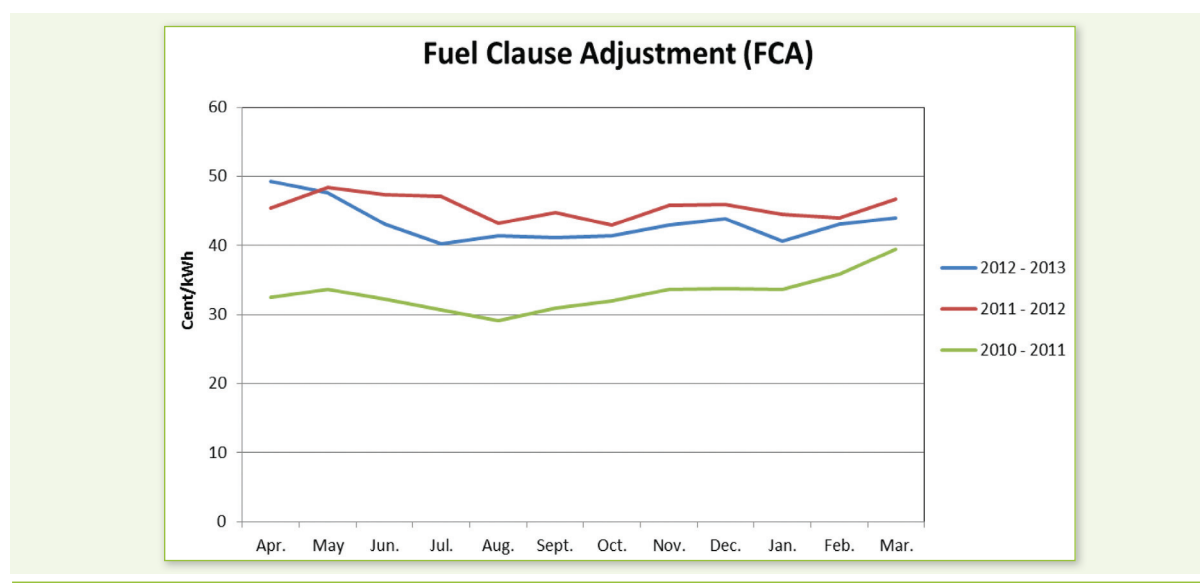
The Fuel Clause Adjustment (FCA) is currently the single largest component of a customer's electricity bill and is directly reflective of the cost of the fuel used in generating and delivering electricity to the customer.

In April 2012, the Commission embarked on a formal review of the FCA. After publishing the terms of reference for the review, a consulting firm based in the United Kingdom was contracted to undertake the review.

The company submitted a report in June 2012 which formed the basis for a public consultation on the findings of the report. This consultation included a town hall meeting held in November 2012 to discuss issues raised in the report and to receive feedback on these issues. Having received feedback, the Commission reviewed all information including written responses to the consultation and will issue its report in April, 2013.

During the review period the FCA peaked at 49.3526¢/kWh in April 2012 (compared to 20.000¢/kWh in April 2006) and dropped to 40.2808¢/kWh by July 2012. The FCA averaged 43.2196¢/kWh for the 2012/2013 reporting period which translates to an average of 12.7% decline over the previous period.

Figure 1.1 – Fuel Clause Adjustment



Utility Regulation (continued)

Telecommunications

Utility regulation activity in the telecommunications sector focused on the development of specifications for Long Run Incremental Cost (LRIC) models for both the mobile and fixed networks which are to be built by C&W, and the intervention in an interconnection dispute between C&W and Digicel.

Long Run Incremental Cost (LRIC)

The Commission and its consultants, after assessment, required that C&W make several revisions to the draft specifications for the LRIC model for both the fixed line and the mobile networks. The Commission also circulated these specifications to stakeholders for their comment. Submissions from Digicel, in response to C&W's draft specifications, were received and analysed. When the Commission gives approval to the specifications, C&W will be required to build the LRIC models for Fixed and Mobile which will inform the level of future interconnection charges.

Interconnection Dispute

On January 17, 2013 the Commission was advised by C&W of a dispute relating to a variation of its Interconnection Agreement with Digicel. The dispute primarily pertains to Digicel's proposed provision of fixed line service and the existing interconnection regime, which Digicel believes is disadvantageous to the company.

Digicel proposes that there should be no interconnection charge when its fixed line service terminates on C&W's fixed line network. Cable & Wireless is of the view that the existing Public Switched Telephone Network termination access charges should apply. The Commission is evaluating the submissions from both parties and will issue its decision on the matter by June 14, 2013, which is in accordance with the Dispute Resolution Procedures Decision.

Interconnection Agreements

Karib Cable Inc. was issued licenses for International, Full Domestic Telecommunications Services and ADSL (ISP) Internet Services. On January 16, 2013 the Commission approved the Interconnection Agreement between C&W and Karib Cable Inc. dated December 27, 2012.

In July 2013 after review and amendment, the Commission approved the C&W and TeleBarbados Interconnection Agreement dated March 6, 2012 which replaced the expired agreement.

Price Cap Plan

March 31, 2013 marked the end of Period I of the Price Cap Plan 2012 (PCP2012) which was issued on March 29, 2012. As such, the moratorium on regulated prices ended. In Period 2, which runs from April 01, 2013 to March 31, 2014 C&W can adjust the rates of regulated telecommunications services in accordance with the 2012 Price Cap Decision.

Utility Regulation (continued)

Standards of Service

BL&P

The BL&P's 2012/2013 compliance with the guaranteed standards averaged above 95% in all of the eight standards except GES4, Provision of a Simple Service Connection, which, notwithstanding the above, has improved over the previous year. No investigations of Voltage Complaints with Correction within Three Months (GES3b) were required. Marginal improvements were also recorded for the categories: Provision of a Simple Service Connection (GES4); Provision of Cost Estimate for Complex Connection Requiring a Site Visit (GES5); Connect or Transfer of Service to an Existing Installation (GES6); and Response to Billing Complaints (GES8). Only GES1, Restore Supply after Fault on Customer's Service, recorded perfect compliance.

Investigation of Voltage Complaint within Three Working Days (GES3a) and Reconnection of Service on Settling the Bill after Disconnection at the Meter (GES7) maintained the same level of compliance as the previous year. With regard to the Overall Standards of Service, the company again exceeded the targets for OES2 and OES3, Response to High/Low Voltage Complaints and Prior Notice of Outages. The 100% target for OES1 was not achieved, while the target for OES5, Answering of Billing/Trouble Calls, was met. No claims were made under OES4.

Table 1.1 – BL&P Guaranteed Standards of Service (Selected)

GUARANTEED STANDARD	TARGET	NO. OF TIMES TARGET NOT MET	AVG. % COMPLIANCE APRIL 2012 - MARCH 2013
GES1 Restore Supply After Fault on Customer's Service (<i>single customer affected</i>)	Within 12 hours	0	100.00
GES4 Provide a Simple Service Connection (<i>connection point within 30m</i>)	Within 12 working days	64	93.7

Table 1.2 – BL&P Overall Standards of Service (Selected)

OVERALL STANDARD	TARGET	AVG. % COMPLIANCE APRIL 2012 - MARCH 2013
OES1 Frequency of Meter Reading	100% of customers' meters to be read every two months	96.5
OES3 Prior Notice of Outages	Where a planned outage is expected to exceed three hours, all affected customers to be notified 48 hours in advance	100

Utility Regulation (continued)

Power Outages

During the period there were three major outages, one of which resulted in an island wide outage for about two hours. This fault was due to weather-related faults on the transmission system. In accordance with the Commission's regulatory reporting procedures the BL&P, within 24 hours of the outage, submitted a preliminary report to the Commission followed by a detailed report on completion of their investigation within six weeks of the occurrence. The Commission seeks to ensure that the BL&P puts procedures in place to mitigate the occurrence of major outages.

C&W

During the period under review, C&W reported three Guaranteed Standards of Service above 80%. There were no reports of breaches in regard to Wrongful Disconnection (GTS7) and Reconnection after Disconnection for Non-Payment (GTS6). Cable theft, unseasonal rainfall and cable damage from external sources contributed to decreased performance with respect to Fault Repair (GTS2).

Cable & Wireless was able to significantly exceed most of the minimum levels stated in the Overall Standards of Service. Information from C&W indicated that performance exceeded 90% for four out of the seven standards - Billing Accuracy (OTS5), Repeated Loss of Service (OTS2), Trunk Blocking (OTS4) and Working Pay Phones (OTS3). The lowest recorded compliance which C&W achieved was for Fault Repair (OTS1). The underperformance of this standard was also attributed to cable theft, unseasonal rainfall and cable damage from external sources.

Table 1.3 - Cable & Wireless Guaranteed Standards of Service (Selected)

GUARANTEED STANDARD	TARGET	NO. OF TIMES TARGET NOT MET	AVERAGE % COMPLIANCE APRIL 2012 – MARCH 2013
GTS1A Approval of Application for Service	Residential – No more than 7 working days	384	89.27
GTS1B Installation of Service after Approval	Residential – No more than 7 working days	497	81.88
GTS2 Fault Repair (Wet Season - June 1 – November 30) (Dry Season - December 1 – May 31)	Wet Season Residential – 40 working hours	16,748	31.82
	Dry Season Residential – 12 working hours	17,568	44.07

Utility Regulation (continued)

Table 1.4 - Cable & Wireless Overall Standards of Service (Selected)

OVERALL STANDARD	TARGET	AVERAGE % COMPLIANCE APRIL 2012 – MARCH 2013
OTS2 Repeated Loss of Service	95% or more % faults should not reoccur within 30 days of repair of first failure	98.60
OTS4 Trunk Blocking	At least 95% calls should be completed during peak traffic	99.86

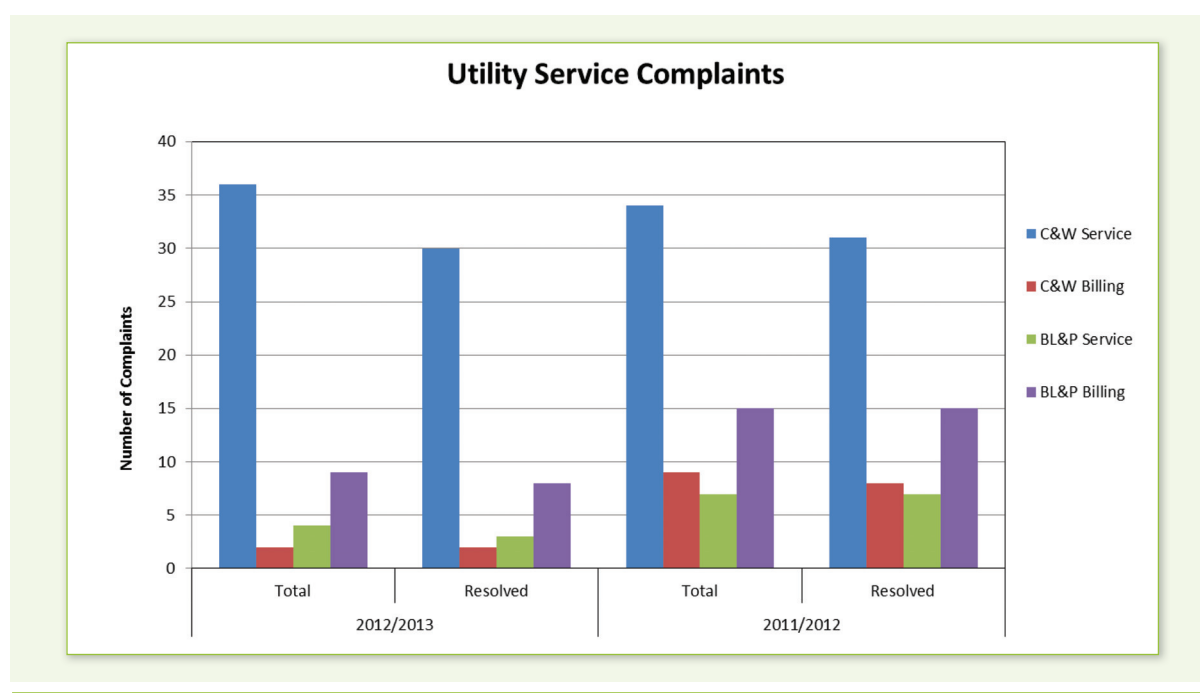
Utility Service Complaints

There were thirty-eight (38) C&W and thirteen (13) BL&P consumer complaints for the reporting period, compared with forty-three (43) C&W and twenty-two (22) BL&P consumer complaints in the previous year. Thirty-two (32) C&W complaints and eleven (11) BL&P complaints were resolved.

Queries

Although the majority of telephone queries were related to the C&W regulated land line telephone service, officers of the Commission also responded to and where possible gave advice on matters related to telecommunications services including mobile and internet which are not regulated by the Commission.

Figure 1.2 - Utility Service Complaints



Utility Regulation (continued)

Regional/ International Relationships

Organisation of Caribbean Utility Regulators (OOCUR)

Staff of the Commission continued to liaise with members of OOCUR. A core element of OOCUR's mandate is to ensure that Caribbean utility regulators have opportunities to develop their understanding of regulatory issues, through the sharing of information and experiences.

Established in 2002 when many of the Caribbean countries were in the early stage of utility regulation, the founding members are the Eastern Caribbean Telecommunications Authority (OECS), the Fair Trading Commission (Barbados), the Office of Utilities Regulation (Jamaica), the Public Utilities Commission (Bahamas), the Public Utilities Commission (Guyana) and the Regulated Industries Commission (Trinidad & Tobago). There are currently 12 member countries.

Fair Competition

The Commission undertook a number of activities during the year to achieve the following objectives:

- a) *to promote, maintain and encourage competition;*
- b) *to prohibit the prevention, restriction or distortion of competition and the abuse of dominant positions in trade in Barbados and within the CARICOM Single Market and Economy;*
- c) *to ensure that all enterprises, irrespective of size, have the opportunity to participate equitably in the market place;*

The work programme included investigations into anti-competitive conduct, market studies and educational programmes.

Investigating and Adjudicating Anti-Competitive Conduct

Investigations into alleged anti-competitive practices dealt with conduct such as exclusive dealing, refusal to supply and anti-competitive agreements. They presented in a wide range of sectors including, telecommunications, distribution and manufacturing. Many of these investigations were concluded during the financial year while the remaining investigations are continuing. Following are summaries of the main investigations undertaken during the year.

Arawak Cement Plant: Discriminatory Pricing by Arawak

While conducting a previous investigation the Commission became aware of the level of handling fees charged by Arawak and initiated an investigation into this matter.

It appeared that Arawak charged particular manufacturers a weighbridge fee when they visited Arawak's premises and used the weighbridge to purchase cement (bag trucks). The company however waived payment of the weighbridge fee when other competing manufacturers entered the company's compound to purchase cement (bulk trucks). After investigating this matter the Commission determined that Arawak's conduct in levying an "Environmental Monitoring and Weighbridge Fee" of \$0.50 per 42.5 kilo bag of cement on the "bag-trucks" entering the company's premises to collect cement whilst not charging competitors who used bulk trucks the same fee, represented a breach of Section 16 of the Fair Competition Act. The Commission directed Arawak to stop this discriminatory action.

Arawak indicated in correspondence that it was prepared to cease the anti-competitive conduct. During the month of October 2012, staff liaised with market players and it was determined that Arawak had implemented the directive of the Commission resulting in a reduction of \$0.50 on handling fees.

Charges in the Banking Industry

In 2010, the Commission began its investigation into allegations that certain banking fees and interest charges were high and unjustified. The investigation focused on the range of services that characterise commercial banking services in Barbados. In this regard, the movement in banks' fees and charges from 2006 to 2011 was analysed to determine whether there was evidence of collusion or anti-competitive conduct including anti-competitive agreements. The Commission utilised consumer questionnaires, surveys and held meetings with the commercial banks and industry experts and analysed all related information.

Fair Competition (continued)

The investigation found that, *inter alia*, there was no evidence of anti-competitive conduct or collusion within the market examined. However, the following were issues of concern:

- Evidence suggested that competition in the area of sundry charges was not as robust as that for interest charges.
- With regard to some charges related to sundry items and ATM charges it appeared that some banks levied a charge which was not entirely reflective of the cost of delivering such services. This may not be deemed anti-competitive given the oligopolistic structure of the market.

The banks agreed in principle to the recommendations and findings of the investigation and agreed to work with the Commission to review their code of conduct to develop it into a code of practice which will be beneficial to consumers.

Destination Photography Industry: Exclusionary Conduct

The Commission completed an investigation into the allegation that ColorBox was persuading the main hotels in the destination wedding business to enter into exclusive contracts in which all of the weddings being hosted by each hotel would be photographed exclusively by ColorBox.

Staff conducted interviews with the key properties known for hosting destination weddings and also questioned ColorBox on the alleged anti-competitive conduct. Given all of the available information including the absence of an exclusivity clause, evidence of anti-competitive conduct could not be confirmed and this investigation was discontinued.

Hewlett-Packard Local Agents: Tied Selling

In August 2011 it was alleged that the local agents for Hewlett-Packard (HP) were requiring their clients who had purchased printers and copiers from them to only use toner and ink sold by HP. It was suggested that the other local distributors of toner were being denied contracts to supply toner and ink to these clients even though they had done so without incident for some time. During its investigation, staff communicated with players in both the supply of equipment and supply of consumables market with a view to understanding and verifying the substance of the allegation. In addition, staff analysed the information received, looked at the warranties of HP and identified all of the firms in the relevant market. These companies were contacted but had not experienced this alleged practice and hence the allegations were not substantiated. In addition, the HP warranty specifies that the use of refilled cartridges does not affect the warranty. In this regard, there was no basis for further investigation of this allegation.

Wi-Connect vs. Digicel - Refusal to Supply

Wi-Connect, a Value Added Service (VAS) provider, wrote to the Commission alleging that Digicel was refusing to provide it with the necessary connectivity to deliver two-way messaging to mobile subscribers across the Caribbean. The VAS operators are usually industry partners of telecommunications providers who offer mobile marketing services including product promotion, event tickets, greeting cards and loyalty programmes. The Commission commenced review of this matter.

Fair Competition (continued)

Sunbeach Communications Inc. vs. TeleBarbados: Refusal to Supply

The Commission received a complaint from Sunbeach Communications Inc. (Sunbeach) in which the company alleged that TeleBarbados (Columbus) had refused to supply wholesale dedicated internet access to Sunbeach. The Commission is also investigating this complaint.

Sunbeach vs. Cable & Wireless (Barbados) Limited (C&W): Price Squeezing

Sunbeach lodged a complaint with the Commission in which it alleged that C&W abused its position of dominance in the supply of wholesale broadband services by charging high rates to Sunbeach for wholesale bandwidth whilst simultaneously allowing its subsidiary (Caribsurf) access to wholesale bandwidth at rates significantly below those charged to Sunbeach. This matter is being investigated.

Karib Cable and TeleBarbados/Flow: Merger

During the month of March 2013 Columbus International (owners of TeleBarbados/Flow) indicated that they were in the process of acquiring controlling interests in Karib Cable. Under the Fair Competition Act notification of a merger is required if the enterprise by itself or together with any other enterprise with which it intends to merge controls not less than 40 per cent of any market. However, where companies do not reach that threshold but are operating in markets in which the merger is likely to have a significant impact on a large number of consumers, the Commission will ask for information to satisfy itself that the merger is not likely to harm competition, consumers or the Barbados economy. The Commission has requested relevant information and is awaiting responses from both parties.

Anti-competitive Restrictions in the Distribution Sector

This study, which commenced in 2010, examined the key features of the grocery retail market with a view to highlighting activities that are likely to create competitive concerns and reduce consumer welfare. The study primarily analysed the product prices that comprise the Department of Commerce's Basket of Goods over the period January 2009 to July 2011. Studies on Resale Price Maintenance and Interlocking Directorships were part of this study and were concluded during the previous year.

Overall, the distribution sector study suggests that the prices of selected products were synchronous and uniform. These features may be attributed to intelligent pricing where the prices of the perceived market leader are adopted as the benchmark by which the prices offered by competing retailers are aligned. While the above mentioned features do not represent breaches of the Fair Competition Act, the Commission will continue to keep them under surveillance to ensure consumer welfare is not reduced.

Scrap Metal Recycling: Predatory Pricing

It was alleged that a company in the scrap metal recycling business had increased its price for the purchase of scrap metal to an unsustainably high price in order to force competitors out of the market. This was alleged to be a deliberate predatory tactic by the dominant firm in the market. After interviews with companies in the market as well as gathering market data, it was determined that the evidence available was not enough to substantiate the alleged anti-competitive conduct. Therefore, in view of the above, the Commission decided to discontinue the investigation into this matter.

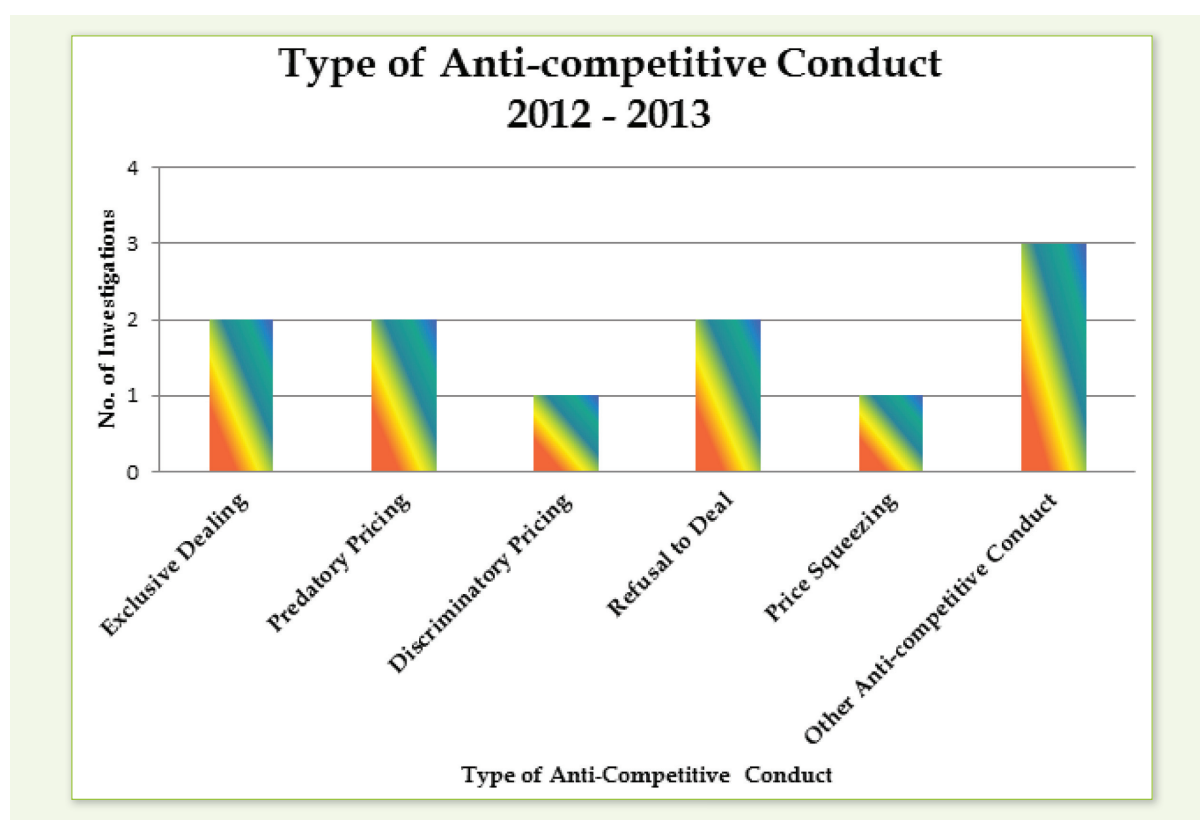
Fair Competition (continued)

Queries, Questionnaires and Other Requests for Information

Staff responded to telephone, e-mail and walk-in inquiries for general information on Competition Law.

During the year the following complaints were received:

Figure 2.1 – Investigations of Allegations of Anti-competitive Conduct April 2012 – March 2013



Educating and Informing Businesses and Consumers

An integral part of the Commission's responsibility is to make available to persons engaged in business and to consumers, general information on the provisions of the Fair Competition Act and their rights and obligations under the Act. The aim of this is to increase awareness of the negative consequences of anti-competitive conduct while highlighting the benefits of competition.

Business Outreach Programme

Staff participated in several moderated panels and delivered presentations to a number of groups including the Barbados Private Sector Trade Team, the Barbados Association of Medical Practitioners and the Barbados Association of Insurance and Financial Advisors.

Annual Training Programme

On March 18 and 19, 2013 the Fair Competition Division hosted the annual two-day training workshop on Competition Law and Policy at the Accra Beach Hotel & Spa. Acting Deputy Assistant

Fair Competition (continued)

Director in the United States Federal Trade Commission's Anti-competitive Practices Division, Christopher Renner, was the guest facilitator while staff of the Fair Competition Division also delivered presentations. Eighteen participants including business leaders, legal personnel and administrators attended the course.

It provided an introduction to the main areas of competition law and also explained the broader policy goals of a competition regime as well as focussed on the goals and benefits of effective competition. The two-day event covered concepts such as anti-competitive agreements, mergers and abuse of dominance as well as regional cross-border anti-competitive conduct.

Cooperating with the CARICOM Competition Commission (CCC)

At Section 5 of the Fair Competition Act the Commission is required to cooperate with the CCC and the authorities of the other member states for the purpose of promoting and maintaining competition throughout the region. During the year the Commission liaised with the CCC in response to information requests on behalf of other agencies such as the United Nations Conference on Trade and Development.

Staff continued to provide advice, attended meetings in the continuing negotiations related to the text of the Canada-CARICOM Free Trade Agreement and provided relevant technical input to the National Coordinating Committee of the CARICOM-CIDA Trade and Competitiveness Project.

Cooperating with International Agencies and Competition Authorities

The Commission's affiliation with various international organisations and networks that promote competition law and policy has ensured that staff remain abreast of emerging ideas, new developments, and best practices relating to competition issues.

ICN Steering Group

The Commission continued to serve as a member of the Steering Group of the International Competition Network (ICN) to which it was elected in May 2011. The ICN comprises approximately 120 competition authorities from 110 countries. The Steering Group is the management team of this network.

In addition to the Commission other members are the United Kingdom, Canada, Russian Federation, Australia, Italy, Netherlands, Brazil, European Commission, Turkey, South Korea, United States of America (USFTC & Department of Justice), France, Germany, México, South Africa, Japan and Poland.

The Steering Group guides the work of the ICN, establishes Working Groups which undertake projects that are approved at the annual conference, reviews and approves the work plan devised by each Working Group and facilitates the financing of ICN activities by establishing an appropriate institutional framework.

The Commission participated in several ICN Steering Group meetings which addressed issues such as international cooperation on enforcement, improving the investigative process and other relevant administrative matters.

Fair Competition (continued)

Informal Partnership with United States Federal Trade Commission (USFTC)

The Commission continued to maintain a relationship with the USFTC under an International Competition Network (ICN) partnership arrangement. Through this informal partnership arrangement with the USFTC and to a lesser extent the United States Department of Justice, staff convened teleconferences during the year to discuss and share experiences on specific topics/issues in the area of competition law enforcement.

Small States Network for Economic Development

From July 30-31, 2012 the Commission, in collaboration with the Small States Network for Economic Development, hosted a workshop entitled "Milestone Judgments in Competition Law" for Judges, Competition Commissioners and Public Officials. The training workshop focussed on the main areas of competition law namely mergers, anti-competitive agreements and abuse of dominance. The workshop was of an extremely high standard and participants included The Honourable Sir Marston Gibson, Chief Justice of Barbados and several judges from most of the CARICOM Member States. Presenters included Professor Richard Whish of King's College, University of London and Mr. William Kovacic, former Chairman of the USFTC.

Regional Competition Network

During the abovementioned workshop, the Commission's Chief Executive Officer organised a meeting of representatives of regional competition authorities and ministries responsible for competition to discuss the launch of a Regional Competition Network. Subsequently, the Commission circulated a proposed Memorandum of Understanding (MOU) for review and agreement by Guyana and Jamaica, member states with active competition agencies. The Commission is awaiting a formal response from these states with regard to the MOU.

Consumer Protection

During the reporting period, the Commission focussed on the rights and responsibilities of consumers as defined in the Consumer Protection Act, CAP.326D (CPA). The Commission:

- Completed its investigation of the fairness of standard form contracts used by banks. The Commission also continued discussions with the banking sector regarding its findings which highlighted Unfair Contract Terms, with a view to having these terms amended.
- Worked to ensure consumers improved their knowledge of the market place through a schedule of visits to schools and presentations to employees at their workplaces.
- Continued assessing Standard Form Contracts to identify unfair terms which required amendment.
- Continued to work with businesses in the retail industry, the Barbados Chamber of Commerce and Industry and stakeholders to implement effective self-regulation.
- Collaborated with international and regional enforcement counterparts such as the CARICOM Competition Commission (CCC) and the International Consumer Protection and Enforcement Network (ICPEN).
- Investigated complaints of alleged Unfair Trade Practices.
- Undertook research into issues that had the potential to harm consumers.

Protecting Consumers from Unfair Contract Terms

The Commission focused on contract terms in Standard Form Contracts (SFCs) that were unduly onerous. Contracts reviewed were in sectors such as the Financial, Telecommunications, Tenancy, Airline, Sports, Security and Stores. The Commission reviewed contracts brought in by complainants who were alleging that their contracts contained unfair terms. SFCs are contracts that are drafted in advance and are not individually negotiated between the parties to the contract.

A total of twenty-four (24) contracts were reviewed. These contracts contained one thousand two hundred and ninety-nine (1,299) terms and thirty-two (32) terms were found to be in breach of the Act.

The Commission required the businesses to either delete or amend the offending terms. Thirty (30) of these terms have either been amended or deleted. Two UCTs remain outstanding and the Commission is continuing to address this matter.

Consumer Protection (continued)

Figure 3.1 – Contract Terms Reviewed



Educational Outreach Programme

In an effort to further develop consumer awareness and make the public, businesses, non-governmental organisations and students more confident in regard to their rights and responsibilities, the Commission developed a number of initiatives that promoted the benefits of the CPA.

Businesses and Organisations

Businesses and organisations which are aware of their rights and responsibilities under the CPA, can transform behaviour in the market place, to the advantage of their businesses and consumers.

The Commission made presentations to twenty (20) organisations and a total of four hundred and seventy-eight (478) persons participated in these discussions which dealt with their rights under the CPA. The businesses visited were: Chickmont, Do It Best, Habitation of God, Global Directories, Barbados Yellow Pages, "A" Class Battery Services, J.E. Security Systems & Services, Gajah Home, Harmony, Duty-Free Caribbean, Sunbeach, Tropical Batteries, BIMAP, W.H. Bryan & Co, Move to More, Caribbean Development Bank, TMR Sales, The Caribbean Broadcasting Corporation, Consumer Guarantees Insurance and the Barbados Association of Insurance and Financial Advisors.

Schools

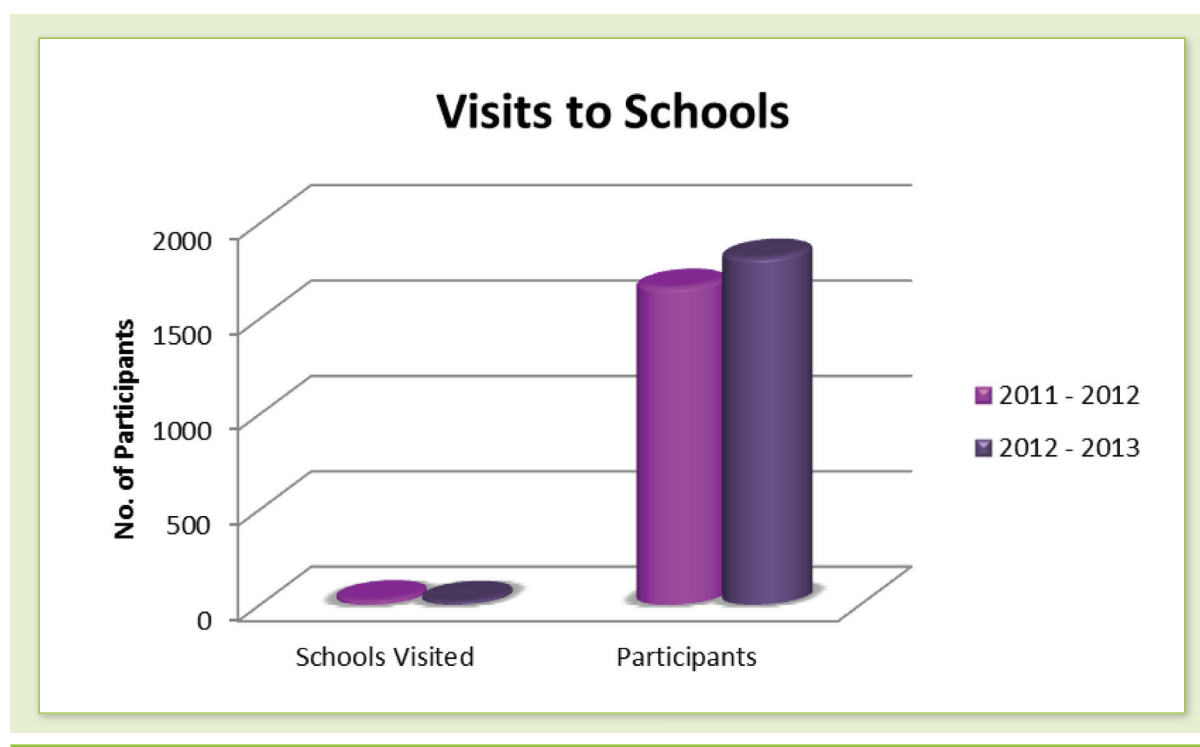
Children and young people handle money, interpret consumer information and make choices and as a consequence, businesses sometimes aim their advertising at this particular group. Therefore, young consumers need the knowledge, understanding and skills necessary to make informed and responsible consumer decisions.

Consumer Protection (continued)

To meet the needs of young consumers at the primary and secondary level, the Commission visited schools on a regular basis and engaged the pupils in interactive discussions on how the CPA is applicable to them. In the reporting period, nineteen (19) visits were made to primary and secondary schools. One thousand eight hundred and eighteen (1,818) pupils and their teachers participated in these sessions.

In October 2012, to further raise the awareness of young consumers, the Commission launched an essay competition entitled “What Is Consumer Protection and How Does It Affect Me, As a Young Consumer?” The competition was open to students between the ages of 13 and 15 years. Judging of the competition and presentation of prizes will be completed by June, 2013.

Figure 3.2 – Visits to Schools



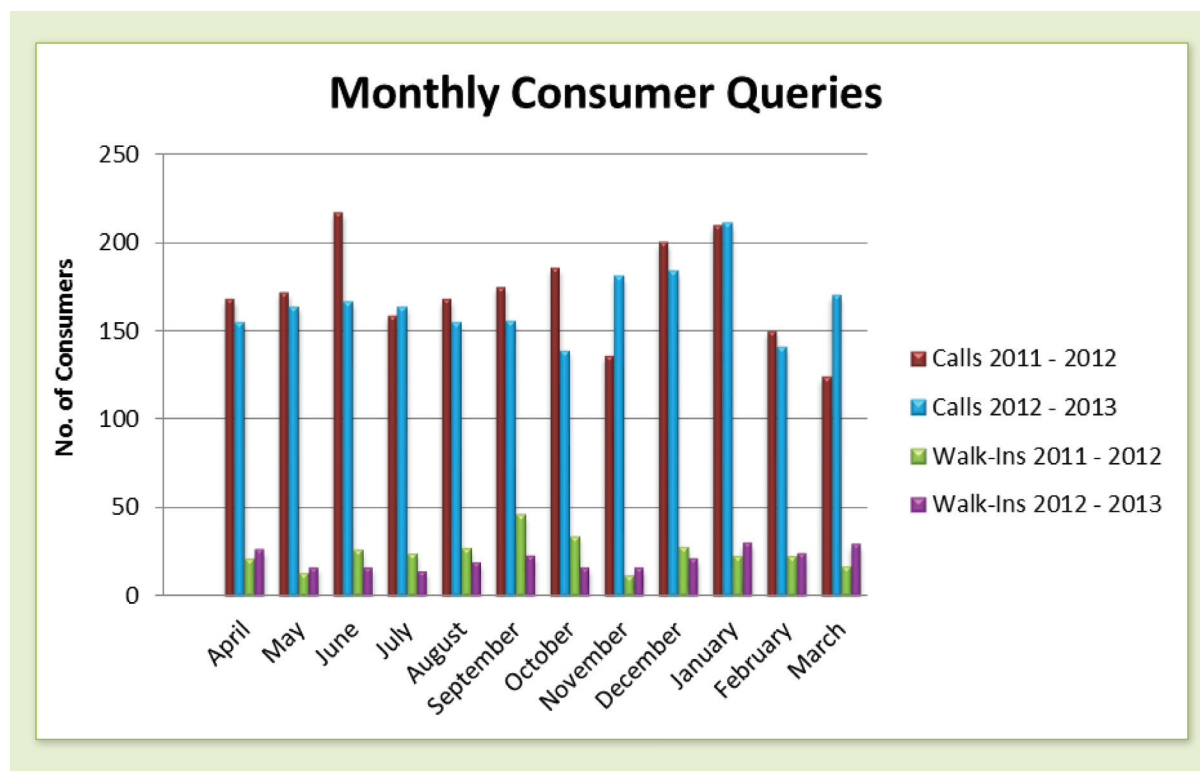
Relationship with Consumers

Queries

Two thousand, two hundred and thirty-seven (2,237) consumers contacted the Commission seeking advice on a range of issues relating to businesses and alleged unfair trade practices. One thousand, nine hundred eighty-seven (1,987) were telephone queries while two hundred and fifty (250) were from consumers who visited the Commission. Thirty-two (32) were written queries. Seven hundred and thirty-eight (738) consumers were directed to the Office of Public Counsel.

Consumer Protection (continued)

Figure 3.3 – Consumer Queries

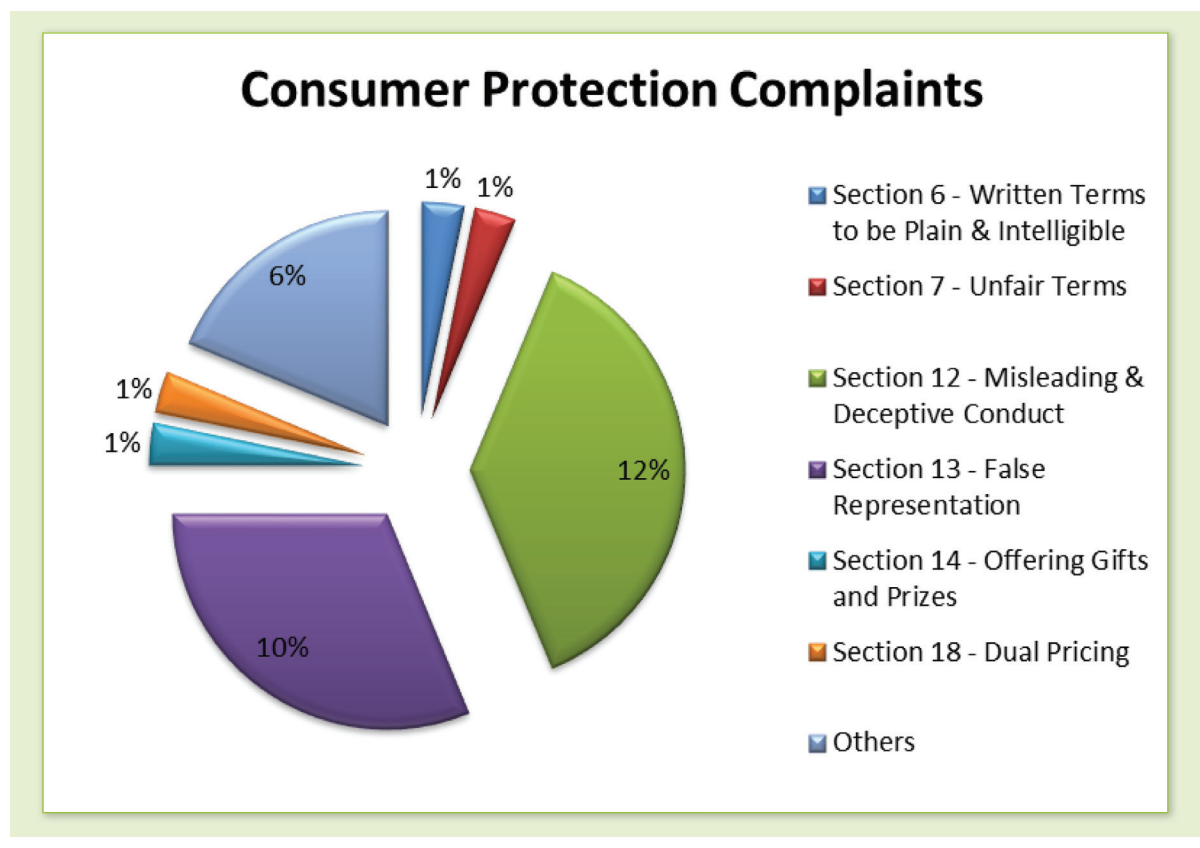


Complaints

Consumer empowerment is partly about providing consumers with full information on their rights, responsibilities and the complaint mechanisms for reporting infringement of their rights. In the reporting period thirteen (13) new complaints were lodged and six (6) complaints alleging Unfair Trade Practices were brought forward from the 2011-2012 period. The new complaints represent a 50 per cent decrease over the number of complaints in 2011-2012. The Commission attributes this reduction to a proactive approach to identifying issues and addressing them, before they impact adversely on consumer welfare and to its sustained intensive educational programme. Generally, consumers are better informed and they are making wiser choices. All complaints received in this reporting period have been resolved including the six (6) complaints which were brought forward from the 2011-2012 period.

Consumer Protection (continued)

Figure 3.4 – Consumer Protection Complaints – (Sections of the Act Breached)
(See also Appendix 1.5)



Relationships with Businesses

Unfair Trade Practices

The Commission conducted eighty (80) unannounced visits to stores in Bridgetown, Speightstown, Sheraton Centre and Warrens to assess compliance with the CPA. Thirteen (13) of these stores displayed the “No Exchange No Refund” signs which contravened the CPA. The businesses were requested to desist from this unfair trade practice.

Media Monitoring

Newspapers

Staff conducted daily reviews of advertisements in the print and electronic media. This exercise uncovered seven misleading advertisements in the reporting period. One of the reoccurring contraventions of the CPA related to credit terms as detailed in the advertisements.

The Commission found that businesses are not providing the information as required by Section 17 of the CPA whereby the total price to be paid, the number of instalments, the rate of interest and the deposit should be stated.

Consumer Protection (continued)

Research

Banking Industry

Under Section 4 (6) of the Fair Trading Commission Act, CAP.326B, and the CPA, the Commission began an extensive review of the Standard Form Contracts (SFCs) utilised in the banking industry in the last reporting period 2011-2012. The aim of the investigation was to ensure that Unfair Contract Terms were amended or deleted from the banks' SFCs. This investigation was completed in the reporting period. Of the one thousand two hundred and ninety-one (1,291) contract terms examined fifty-six (56) terms were in contravention of the CPA. The work in this reporting period mainly focussed on ensuring that the banks took the required remedial action.

On Tuesday, December 11, 2012, the Commission met with commercial bankers and their representatives and discussed the findings of the investigation. By March 31, 2013, three of the five banks had already made changes to comply with the CPA. The Commission expects full compliance and is awaiting outstanding submissions.

"Electrical Appliances with Electrical Configuration Different from Barbados' (110V/50Hz)"

Based on the situation in the market place with respect to the importation of electrical appliances which have a different electrical configuration to Barbados' electrical configuration, the Commission on its own initiative launched an investigation to determine whether or not this practice contravened the CPA. Barbados' suppliers import electrical appliances from the United States of America (USA) and/or Europe that operate on a configuration of 110V/60Hz and 220V/50Hz, respectively.

Barbados' electrical configuration is pegged at 115V/50Hz, as stated by the Global Electric Directory. However, electrical configurations that range between 100V - 127V are deemed to be fixed at 110V. An electrical appliance with a configuration of 110V/60Hz or 220V/50Hz will operate in Barbados. However, its operational capacity may be reduced. The anomaly of Barbadian suppliers purchasing electrical goods with different configurations, from Europe or the USA for use in Barbados leaves consumers with no option but to purchase transformers at an additional cost. These transformers convert the voltage from one level to another, to make the appliance work more efficiently.

The investigation revealed that suppliers who imported appliances which are not of the same configuration as the Barbados electrical configuration, are not in contravention of the CPA. However, where a supplier sells an appliance to a consumer and does not inform the consumer that it is necessary to purchase a transformer, the supplier has misled the consumer and therefore breaches the CPA.

The Commission believes that:

- Consumers should be educated about the use of appliances with a different configuration to that of Barbados and the necessity to purchase transformers.
- Consumers who are either renovating or building new homes should have their homes also wired with 220V in essential areas for example, the kitchen and laundry.

It is suggested that since transformers are essential to the effective operation of appliances, they should be provided with the appliances thus eliminating the likelihood of consumers being misled

Consumer Protection (continued)

about the need to purchase transformers. The Commission has sent the report to the Government Electrical Engineering Department, the Barbados National Standards Institute and the Chief Town Planner in order to consult on this issue with them.

Voluntary Codes of Practice

Several meetings were held at the Barbados Chamber of Commerce and Industry with retailers and non-governmental organisations, regarding the implementation of a Voluntary Code of Practice (Code). Retailers informed the Commission that a draft of the Code was being prepared and would have been presented in early 2013, but the Commission is yet to receive the document. Codes influence, shape, control or set benchmarks for behaviour in the marketplace. The implementation of a Code also indicates to consumers that a member's product meets certain standards and that their contracts are fair. The Codes also offer quick and inexpensive resolution to consumer issues.

CARICOM Competition Commission (CCC)

As a member of the CCC Project Steering Committee, the Commission has been actively participating in teleconferences relating to several regional consumer issues.

ICPEN

The International Consumer Protection and Enforcement Network (ICPEN) has over forty-two (42) members. The mandate of the network is to share information about cross-border commercial activities that may affect consumer interests. On September 21, 2012, the Commission participated in ICPEN's annual *"Online Sweep Day"*.

This year, the Commission focused on misleading and deceptive conduct. ICPEN's initiative is to target the growth in fraudulent, deceptive and unfair conduct emerging online. Forty-six (46) websites were reviewed. Sweeps of this nature are necessary, as they make suppliers aware that an enforcement presence is taking pre-emptive steps to safeguard consumer welfare.

The Commission also participated in ICPEN's monthly teleconference calls which highlighted emerging practices and trends that have the potential to affect consumer welfare in Barbados.

Public Education and Awareness

9th Annual Lecture

On Friday, March 8, the Commission hosted its 9th Annual Lecture entitled, *“Competitive Markets: Do They Exist in Small Economies – Can Consumers Really Expect to Benefit?”*. This year’s speaker was Richard Whish, Professor of Law at King’s College London who spoke about the benefits that can be derived from implementing an effective competition law.

World Consumer Rights Day

On World Consumer Rights Day celebrated on March 15, 2013, the Commission participated in the Caribbean Broadcasting Corporation’s *Mid-Morning Mix* show. The rights given to consumers under the CPA were highlighted and explained.

Radio Interview

On Monday, June 11, 2012, the Commission participated in a live studio interview on Bajan Living on Q100.7 FM on the rights and responsibilities of consumers and businesses.

Public Forum

On Thursday, November 1 the Commission hosted a Public Forum to discuss the Fuel Clause Adjustment. This formed part of the public consultation process. The purpose of the meeting was to allow the public to give comments and obtain information on the Fuel Clause Adjustment.

Published Articles

The Commission continued to publish columns as follows:

- **Dear FTC**, which appeared in the *Weekend Nation* fortnightly and which responded to specific questions from the public on consumer protection, utility regulation and fair competition issues.
- **Conversations with the FTC** which appeared in the **Business Authority** monthly. This column featured interviews with senior officers of the Commission on current issues under their purview.
- **Let’s Get It Right Consumers** appeared in the **Heat** newspaper once a week and featured short tips on consumer rights and responsibilities.
- The **FTC column**, which was published on a fortnightly basis in **Business Monday**, dealt with issues relevant to the business community.

Public Education and Awareness (continued)



Guest speaker at the 9th Annual Lecture Professor Richard Whish



Chairman of the Fair Trading Commission Sir Neville Nicholls as he delivered the welcome address at the Annual Lecture



Guest speaker Professor Whish, Chief Executive Officer of the Fair Trading Commission Peggy Griffith and former Chairman of the Fair Trading Commission Mr. Justice Frank King at the Annual Lecture

Public Education and Awareness (continued)



The Honourable Donville Inniss, Minister of Industry, International Business, Commerce and Small Business Development as he delivered the opening remarks at the 9th Annual Lecture



A section of the crowd at the 9th Annual Lecture

Public Education and Awareness (continued)



Director of Fair Competition Antonio Thompson oversees the work of participants in the annual workshop on Competition Law and Policy



Guest facilitator of the workshop Christopher Renner of the USFTC as he spoke to the participants

Organisational Development

One of the Commission's strategic goals is to identify human resources and operational initiatives in order to strengthen organisational and productive capabilities. As part of the realisation of this goal, the Commission facilitates members of staff participating in training and development initiatives which are relevant to the organisation's mandate.

Areas such as renewable energy, public sector accounting standards, judgements in competition law, industry regulation and best practices, emotional intelligence and alternative dispute resolution formed part of the training schedule for the reporting period.

The Commission benefitted from its strategic alliances with local, regional and international agencies. Staff participated in selected training programmes and conferences organised by agencies such as the Fordham Competition Law Institute, the International Competition Network (ICN) and the International Consumer Protection and Enforcement Network (ICPEN).

Staff also benefitted from participation in the Alternative Dispute Resolution programme hosted by Stitt Feld Handy and the Utility Regulation Training programme offered by the Public Utilities Research Center (PURC).

Staff attended an EUCI workshop entitled "Power Purchasing Structure and Options In the Renewable Energy Sector", the Association of Chartered Certified Accountants (ACCA) conference which dealt with International Financial Reporting Standards and the Institute of Chartered Accountants of Barbados (ICAB) 19th Annual Conference.

Organisation of Caribbean Utility Regulators (OOCUR)

Staff presented papers at the 10th Annual OOCUR Conference in Freeport, Bahamas from November 7-9, 2012. One paper examined the need to maintain the relevance and effectiveness of OOCUR and the second paper dealt with convergence and telecommunications regulation and examined how this may lead to changes in the legislative environment in Barbados.

Looking to the Future

Advocacy will continue to be an important part of the work of the Commission. A sustained programme of visits to schools, workshops for businesses and placement of relevant information via the print and electronic media will be undertaken.

The Commission is awaiting a draft Voluntary Code of Practice which is being prepared by retailers for its review.

There are several investigations being undertaken by the Fair Competition Division and these are expected to be completed.

The Commission is desirous of improving its ability to verify and audit the Fuel Clause Adjustment calculation and is proposing that the FCA should be based on historic instead of projected data. The Commission will therefore issue a Motion to Review the FCA in May.

It is expected that the draft National Sustainable Energy Policy and the review of the Electric Light and Power Act will be finalised. As a consequence, the Commission is likely to have an expanded role which may include the approval of a grid code and the power purchase agreements between the BL&P and Independent Power Producers.

**Financial Statements
Fair Trading Commission
For the Year Ended March 2013
(Expressed in Barbados Dollars)**

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AUDITORS' REPORT

To the Board of the Fair Trading Commission

We have audited the accompanying financial statements of the Fair Trading Commission, which comprise the statement of financial position as of 31 March 2013 and the statement of comprehensive income, statement of changes of equity and statement of cash flows for the year then ended and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

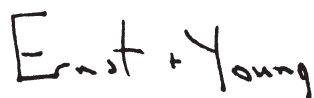
Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements 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 control. 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 statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Commission as of 31 March 2013 and its operations and its cash flows for the year then ended in accordance with International Financial Reporting Standards.



CHARTERED ACCOUNTANTS

Barbados

17 July 2013

FAIR TRADING COMMISSION

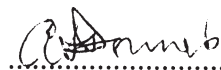
Statement of Financial Position As of 31 March 2013

	Notes	2013 \$	2012 \$
Assets			
Current assets			
Cash	4	753,554	467,181
Time deposits	4	109,845	107,172
Accounts receivable	5	1,057,418	1,168,895
Prepayments		94,528	96,348
		<u>2,015,345</u>	<u>1,839,596</u>
Accounts receivable	5	50,000	27,500
Property and equipment	6	496,023	567,861
		<u>2,561,368</u>	<u>2,434,957</u>
Liabilities			
Current liabilities			
Accounts payable and accrued liabilities		79,019	94,420
Advance deposits	7	20,000	-
		<u>99,019</u>	<u>94,420</u>
Deferred income	8	86,235	76,116
		<u>185,254</u>	<u>170,536</u>
Net assets		<u>2,376,114</u>	<u>2,264,421</u>
Represented by:			
Government advances and levies		1,037,418	1,158,760
Government grants		980,544	761,751
Accumulated surplus		358,152	343,910
		<u>2,376,114</u>	<u>2,264,421</u>

The accompanying notes form part of the financial statements.

Approved by the Commission on 17 July 2013 and signed on its behalf by:

 Chairman

 Commissioner

FAIR TRADING COMMISSION

Statement of Comprehensive Income Year ended 31 March 2013

	Notes	2013 \$	2012 \$
Income			
Government grant		2,963,278	3,038,413
Levies		1,037,418	1,158,760
Other income		14,242	27,200
		<u>4,014,938</u>	<u>4,224,373</u>
Expenses			
Personal emoluments	9(a)	2,177,897	2,164,370
Rental of property		450,025	435,925
Other operating expenses	9(b)	269,872	337,779
Professional services	9(c)	257,356	423,075
Utilities		154,360	157,334
National Insurance contributions	9(a)	131,613	129,763
Pensions and gratuities	9(a)	142,884	126,894
Depreciation	6	120,055	123,241
Maintenance of property		54,403	60,695
Other personal emoluments	9(a)	50,043	45,963
Supplies and materials		49,919	44,477
Travel		40,780	39,601
Group medical		40,469	34,687
Rental of equipment		27,713	27,713
Library books and publications		17,059	27,121
Subscriptions and contributions		14,059	16,605
Bank charges		2,189	1,930
		<u>4,000,696</u>	<u>4,197,173</u>
Surplus		<u>14,242</u>	<u>27,200</u>

The accompanying notes form part of the financial statements.

FAIR TRADING COMMISSION

Statement of Changes in Equity Year ended 31 March 2013

	Government advances \$	Government grants \$	Accumulated surplus \$	Total \$
Balance at 1 April 2011	998,396	1,602,604	316,710	2,917,710
Government contributions	1,158,760	3,327,749	-	4,486,509
Government grants utilized	-	(4,168,602)	-	(4,168,602)
Repayments to Government	(998,396)	-	-	(998,396)
Surplus for the year	-	-	27,200	27,200
Balance at 31 March 2012	1,158,760	761,751	343,910	2,264,421
Government contributions	1,037,418	3,282,789	-	4,320,207
Government grants and levies utilized	(993,760)	(3,063,996)	-	(4,057,756)
Repayments to Government	(165,000)	-	-	(165,000)
Surplus for the year	-	-	14,242	14,242
Balance at 31 March 2013	1,037,418	980,544	358,152	2,376,114

The accompanying notes form part of the financial statements.

FAIR TRADING COMMISSION

Statement of Cash Flows Year ended 31 March 2013

	2013 \$	2012 \$
Cash flows from operating activities		
Personal emoluments	(2,173,211)	(2,164,544)
Rental of property	(451,200)	(437,100)
Other operating expenses	(266,618)	(316,291)
Professional services	(259,167)	(475,096)
Utilities	(152,542)	(157,544)
Pensions and gratuities	(165,131)	(126,894)
National Insurance contributions	(131,615)	(129,764)
Maintenance of property	(55,277)	(59,255)
Supplies and materials	(50,721)	(41,395)
Other personal emoluments	(50,043)	(45,963)
Group medical	(40,469)	(34,687)
Travel	(40,780)	(39,601)
Subscriptions and contributions	(15,694)	(16,971)
Rental of equipment	(27,560)	(27,713)
Library books and publications	(16,704)	(30,490)
Bank charges	(2,189)	(1,930)
Net cash used in operating activities	(3,898,921)	(4,105,238)
Cash flows from investing activities		
Car loans repaid by staff	17,500	10,000
Car loans disbursed to staff	(50,000)	-
Increase in time deposits	2,673	2,607
Interest received	11,568	24,593
Purchases of equipment	(43,709)	(12,333)
Net cash (used in) from investing activities	(61,968)	24,867
Cash flows from financing activities		
Advances from Government	3,282,789	3,327,749
Levies paid in by utility service providers	1,158,760	998,396
Repayment of Government advances	(165,000)	(998,396)
Decrease in litigation reserve	(49,287)	-
Advance deposits	20,000	-
Net cash from financing activities	4,247,262	3,327,749
Increase (decrease) in cash for the year	286,373	(752,622)
Cash – beginning of year	467,181	1,219,803
Cash – end of year	753,554	467,181

The accompanying notes form part of the financial statements.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2013

1. Establishment, principal activity and registered office

The Fair Trading Commission (the "Commission") was established in Barbados under the provisions of *The Fair Trading Commission Act CAP 326B* and replaced the Public Utilities Board which operated since 1955.

The principal activities of the Commission are to enforce *The Utilities Regulation Act CAP282*, some of the provisions of *The Telecommunications Act CAP282B*, *The Fair Competition Act 326C* and the *Consumer Protection Act CAP326D*. The Commission shall promote efficiency and competitiveness and improve standards of service and quality of goods and services supplied by service providers and business enterprises over which it has jurisdiction.

The Commission's principal place of business is situated at Good Hope, Green Hill, St. Michael, Barbados.

2. Significant accounting policies

a) Basis of preparation

The financial statements have been prepared in Barbados dollars on a historical cost basis and are in accordance with International Financial Reporting Standards.

b) Changes in accounting policy and disclosures

New and amended standards

The accounting policies adopted are consistent with those used in the previous financial year except for the adoption of the following standards and amendments.

IAS 12 Income Taxes (Amendment) – Deferred Taxes: Recovery of Underlying Assets

IFRS 1 First-time adoption of International Financial Reporting Standards (Amendment) – and removal of Fixed Dates for First-time Adopters

IFRS 7 Financial Instruments: Disclosures – Enhanced Derecognition Disclosure Requirements

Adoption of these new and amended standards did not have any effect on the financial performance or position of the Commission.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2013

2. Significant accounting policies (cont'd)

b) Changes in accounting policy and disclosures (cont'd)

New standards, interpretations and amendments to existing standards that are not yet effective and have not been early adopted by the Commission are as follows:

IAS 1 Presentation of Items of Other Comprehensive Income – Amendments to IAS 1
IAS 19 Employee Benefits (Revised)
IAS 32 Offsetting Financial Assets and Financial Liabilities — Amendments to IAS 32
IFRS 1 Government Loans – Amendments to IFRS 1
IFRS 7 Disclosures — Offsetting Financial Assets and Financial Liabilities — Amendments to IFRS 7
IFRS 9 Financial Instruments: Classification and Measurement
IFRS 10, IFRS 12, IAS 27 Investment Entities (Amendments)
IFRS 10 Consolidated Financial Statements, IAS 27 Separate Financial Statements
IFRS 11 Joint Arrangements, IAS 28 Investments in Associates and Joint Ventures
IFRS 12 Disclosure of Interests in Other Entities
IFRS 13 Fair Value Measurement
IFRIC 20 Stripping Costs in the Production Phase of a Surface Mine

These standards are unlikely to have an impact on future financial statements of the Commission.

Improvements to International Financial Reporting Standards

Certain limited amendments, which primarily consist of clarifications to existing guidance, were made to the following standards and are not expected to have a material impact on the financial statements:

IFRS 1 First-time Adoption of International Financial Reporting Standards
IAS 1 Presentation of Financial Statements
IAS 16 Property Plant and Equipment
IAS 32 Financial Instruments, Presentation
IAS 34 Interim Financial Reporting

These improvements are effective for annual periods beginning on or after 1 January 2013.

c) Receivables

Receivables are recognized initially at the original invoice amount. A provision for impairment of receivables is established when there is objective evidence that the Commission will not be able to collect all amounts due according to the original terms of receivables.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2013

2. Significant accounting policies (cont'd)

c] Receivables (cont'd)

Significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy or financial reorganization, and default or delinquency in payments are considered indicators that the receivable is impaired. The amount of the provision is the difference between the asset's carrying amount and the recoverable amount. The amount of the provision is recognized in the statement of comprehensive income.

d] Property and equipment

Property and equipment is stated at cost less accumulated depreciation and provision for impairment in value. The carrying value of property and equipment is reviewed for impairment when events or changes in circumstances indicate that the carrying value may not be recoverable.

The useful lives of the assets are estimated as follows:

Computer and office equipment	1 - 5 years
Fixtures	5 years
Vehicles	5 years
Leasehold improvements	10 years

e] Income recognition

Income is recognized on the following bases:

- i] Funds voted for its use by the Government of Barbados:
Government grants are matched against the related expenditure in the relevant accounting period.
- ii] Sums levied on the utility service providers:
Sums levied on utility service providers are matched against utility regulation costs and accrued when incurred.
- iii] Funds received for the purchase of office equipment, fixtures and vehicles are capitalized as deferred income in the year of acquisition and recognized over the useful lives of the relevant assets.

f] Taxation

The Commission is exempt from taxation.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2013

3. Significant accounting judgments, estimates and assumptions

In the process of applying the Commission's accounting policies, management has made certain judgments, assumptions and estimates that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year. The most significant of these is discussed below:

Property and equipment

Management exercises judgment in determining whether costs incurred can accrue sufficient future economic benefits to the Commission, such that the related expenditures should be treated as a capital expense. Further judgment is applied in the annual review of the useful lives of all categories of property and equipment and the resulting depreciation charge determined thereon.

4. Cash and time deposits

Cash comprises an operating account which bears interest at 1.25% (2012 - 1.75%) per annum.

Time deposits bear interest at the rate of 2.85% per annum (2012 - 2.85%). The deposits are due to mature on 15 November 2013 and 14 February 2014 respectively.

5. Accounts receivable

Current:

	2013 \$	2012 \$
Utility service providers	1,037,418	1,158,760
Car loans receivable	20,000	10,000
Other	-	135
	<u>1,057,418</u>	<u>1,168,895</u>

Non-current:

	2013 \$	2012 \$
Car loans receivable	<u>50,000</u>	<u>27,500</u>

Utility service provider levies are based upon the costs incurred to regulate utility services. The levy comprises the annual year-end assessment and special assessments to meet public hearing costs. There are no impaired amounts as at 31 March 2013.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2013

6. Property and equipment

	Leasehold improvements \$	Computer and office equipment \$	Fixtures \$	Vehicles \$	Total \$
Cost					
Balance – 1 April 2011	819,570	233,444	193,855	72,250	1,319,119
Additions	-	12,333	-	-	12,333
Disposals	-	(7,163)	-	-	(7,163)
Balance – 31 March 2012	819,570	238,614	193,855	72,250	1,324,289
Additions	-	48,217	-	-	48,217
Disposals	-	(8,279)	(1,900)	-	(10,179)
Balance – 31 March 2013	819,570	278,552	191,955	72,250	1,362,327
Accumulated depreciation					
Balance – 1 April 2011	245,871	204,391	188,881	1,207	640,350
Charge for the year	81,957	25,520	1,314	14,450	123,241
Disposals	-	(7,163)	-	-	(7,163)
Balance – 31 March 2012	327,828	222,748	190,195	15,657	756,428
Charge for the year	81,957	21,835	1,813	14,450	120,055
Disposals	-	(8,279)	(1,900)	-	(10,179)
Balance – 31 March 2013	409,785	236,304	190,108	30,107	866,304
Net book value					
31 March 2013	409,785	42,248	1,847	42,143	496,023
31 March 2012	491,742	15,866	3,660	56,593	567,861
1 April 2011	573,699	29,053	4,974	71,043	678,769

7. Advance deposits

These represent deposits made by Digicel (Barbados) Limited and Cable & Wireless (Barbados) Limited to cover expenses relating to an interconnection dispute between the two parties.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2013

8. Deferred income

	2013 \$	2012 \$
Deferred income – beginning of year	76,116	105,067
Add: Grants for assets purchased during the year	48,217	12,333
Less: Amortization of deferred income for the year	(38,098)	(41,284)
Deferred income – end of year	86,235	76,116

9. Operating expenses

a) Employment costs

	2013 \$	2012 \$
Personal emoluments	2,177,897	2,164,370
National Insurance contributions	131,613	129,763
Other personal emoluments	50,043	45,963
	2,359,553	2,340,096

Pensions for retired employees and gratuities to contracted employees amounted to \$142,884 (2012 - \$126,894).

b) Other operating expenses

	2013 \$	2012 \$
Overseas training and conferences	64,137	49,659
Local training	22,131	20,764
Hosted seminars	64,935	133,377
Refreshments and hospitality	16,444	34,329
Commissioners' fees	59,600	53,100
Public relations	18,507	25,019
FTC publications	20,184	17,321
Postage and courier services	3,934	4,210
	269,872	337,779

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2013

9. Operating expenses (cont'd)

c] Professional services

	2013	2012
	\$	\$
Regulatory consultancies	232,555	397,795
Other consultancy services	429	1,839
Audit fees	23,441	23,441
Legal fees	931	-
	257,356	423,075

10. Lease commitments

The Commission occupies premises under an operating lease which expires in 2014 with an option to renew. Future lease payments under this lease are as follows:

	2013	2012
	\$	\$
Property rental:		
Due within 1 year	464,125	450,025
Between 2 and 5 years	38,775	502,900
	502,900	952,925

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2013

11. Financial risk management objectives and policies

The Commission's financial assets comprise cash, time deposits and accounts receivable. Financial liabilities comprise accounts payable and advance deposits.

Credit risk

The Commission is subject to credit risk in the event of non-payment of receivable balances by utility service providers. The Commission believes that this risk is mitigated by the close monitoring of these balances and by the protection under *The Fair Trading Commission Act, CAP 326B* which provides legal recourse for the recovery of these balances levied on utility service providers.

The maximum exposure to credit risk at the reporting date is the carrying value of each class of financial asset. The Commission does not hold any collateral security for receivables from utility service providers. Car loans are secured by bills of sale over the respective vehicles.

Interest rate risk

The Commission's interest rate risk arises from the possibility that changes in interest rates will affect future cash flows or the fair values of financial instruments. Interest rate exposure is disclosed in Note 4.

The Commission has no exposure to foreign currency risks. Liquidity risk is minimal since accounts payable are due within one year.

12. Fair values

The carrying values of financial assets and liabilities are a reasonable estimate of their fair values due to their short-term nature. The fair value of long-term accounts receivable is immaterial to the financial statements.

13. Capital management

The Commission's operations are financed by Government and levies from certain service providers which are regulated by the Commission.



Appendices

Statistical Tables

APPENDIX I

Appendix 1.1 – Fuel Clause Adjustment

Month	April 2012 to March 2013 (All classes)	April 2011 to March 2012 (All classes)	April 2010 to March 2011 (All classes)
April	49.3526	45.387	32.4633
May	47.6181	48.4401	33.6871
June	43.0266	47.3105	32.2438
July	40.2808	47.1443	30.7056
August	41.3764	43.1732	29.1349
September	41.0961	44.7178	30.9430
October	41.351	42.9438	31.9795
November	42.9585	45.8392	33.6020
December	43.9224	45.8823	33.7912
January	40.5668	33.7912	33.6561
February	43.1478	43.9711	35.7891
March	43.9379	46.7002	39.4738

Appendix 1.2 – Utility Service Complaints

Complaints	2012/2013		2011/2012	
	Total	Resolved	Total	Resolved
C&W Service	36	30	34	31
C&W Billing	2	2	9	8
BL&P Service	4	3	7	7
BL&P Billing	9	8	15	15

Statistical Tables

APPENDIX I

Appendix 1.3 – Investigations of Allegations of Anti-competitive Conduct April 2012 – March 2013

Type of Anti-competitive Conduct	On-going	Closed	Total
Exclusive Dealing	0	2	2
Predatory Pricing	2	0	2
Discriminatory Pricing	0	1	1
Refusal To Supply	2	0	2
Price Squeezing	1	0	1
Other Anti-competitive conduct	1	2	3
Total Domestic Inquiries	6	5	11

Statistical Tables

APPENDIX I

Appendix 1.4 – Consumer Queries April 2012 - March 2013

	CALLS		WALK-INS		CONTACTS	
	2012-2013	2011-2012	2012-2013	2011-2012	2012-2013	2011-2012
April	155	168	26	21	181	189
May	164	172	16	13	180	185
June	167	217	16	26	183	243
July	164	159	14	24	178	183
August	155	168	19	27	174	195
September	156	175	23	46	179	221
October	139	186	16	34	155	220
November	181	136	16	12	197	148
December	184	200	21	28	205	228
January	211	210	30	23	241	233
February	141	150	24	23	165	173
March	170	124	29	17	199	141
TOTAL	1,987	2,065	250	294	2,237	2,359

Appendix 1.5 – Consumer Complaints by Section of the Act Breached April 2012 - March 2013

Section of the Consumer Protection Act	No. of Complaints
Section 6 – Terms to be Plain and Intelligible	1
Section 7 – Unfair Contract Terms	1
Section 12 - Misleading & Deceptive Conduct	12
13 - False Representation	10
Section 14 - Offering Gifts and Prizes	1
Section 18 - Dual Pricing	1
Others	6

Consultation Papers, Reports, Decisions and Orders

APPENDIX II

Decisions

- Decision on Price Cap Plan 2012 Compliance Rules and Procedures was issued on May 23, 2012.
- Decision on Digicel's Motion to Review the FTC's Long Run Incremental Cost (LRIC) Guidelines Decision was issued on June 13, 2012.

Consultations

- The consultation paper on the Fuel Clause Adjustment was published on October 8, 2012.
- The consultation paper on the Renewable Energy Rider was issued on November 23, 2012.

Presentations at Lectures, Workshops and Seminars

APPENDIX III

Lecture

March 2013

Ninth Annual Lecture

"Competitive Markets – Do they Exist in Small Economies – Can Consumers Really Expect to Benefit?"

- Accra Beach Hotel & Spa

Presenter:

Professor Richard Whish, Professor of Law, King's College, London

Conference

November 7 – 9, 2012

Tenth Annual OOCUR Conference

- Radisson Resort Grand Lucayan,
Freeport, Grand Bahama, Bahamas

"Keeping the Fire Burning"

Presenter:

Sandra Sealy
Director of Utility Regulation

*"Convergence and Telecommunications Regulation
– A Look at Issues with Special Reference to
Barbados"*

Presenter:

Edward Hunte
Telecommunications Analyst

Commission Panels

APPENDIX IV

UTILITY REGULATION

Telecommunications

Sir Neville Nicholls
Professor Andrew Downes
Mr. Gregory Hazzard
Mr. Errol Humphrey
Ms. Monique Taitt

Electricity

Sir Neville Nicholls
Mr. Andrew Brathwaite
Mr. Gregory Hazzard
Mr. Andrew Willoughby
Dr. Philmore Alleyne

Fair Competition/ Consumer Protection

Professor Andrew Downes
Mr. Errol Humphrey
Mr. Alfred Knight
Mr. Kendrid Sargeant
Ms. Herma Griffith-Ifill

Commission Information

APPENDIX V

Commission Staff as at March 31, 2013

Chief Executive Officer	- Ms. Peggy Griffith, BA, MPA
Director of Fair Competition	- Mr. Antonio Thompson BSc, MSc
Director of Utility Regulation	- Mrs. Sandra Sealy, BSc, MBA, MSc
Director of Consumer Protection	- Ms. Judy Maynard, LLB, LLM
General Legal Counsel	- Mrs. Kim Griffith-Tang How, LLB, LLM, Attorney-at-Law
Accountant	- Mrs. Shernell Small-Husbands, BSc, FCCA
Utility Analyst	- Dr. Marsha Atherley-Ikechi, BSc, MSc, PhD
Telecommunications Analyst	- Mr. Edward Hunte, BSc, MBA
Financial Analyst	- Mrs. Susanna Cooper-Corbin, BSc, MBA, FCCA
Human Resources Officer	- Mrs. Arlene Bushell, BSc, MSc
Senior Legal Officer	- Ms. Dava Leslie, LLB, MBA, Attorney-at-Law
Consumer Protection Officer	- Ms. Fiona Scantlebury, BSc, MBA
Consumer Protection Officer	- Ms. Nichole Mayers, BSc, MSc
Information Specialist	- Mrs. Petra Emmanuel, BA, MA
Systems Administrator	- Mr. Richard Farley
Documentalist	- Ms. Heather Waithe
Economist	- Dr. Troy Waterman, BSc, MSc, PhD
Research Officer	- Mrs. Sherri Frederick, BSc, MSc
Executive Secretary	- Mrs. Denese Alleyne, CPS
Office Manager	- Mrs. Heather Boxill, APS
Assistant Accountant	- Ms. Sharon Grimes
Research/Administrative Assistant	- Ms. Marisha Walcott, BSc
Administrative Assistant	- Ms. Cheldine Holford
Administrative Assistant	- Ms. Cheryl Jones, ACS, BSc
Administrative Assistant	- Ms. Samantha Hinds
Senior Clerk	- Mrs. Julia Regis, BSc
Help Bureau Officer	- Mrs. Wanda Crichlow-Trotman
Help Bureau Officer	- Ms. Sonia Spencer
Receptionist/Typist	- Ms. Saunta St. Hill
Office Attendant	- Mr. Corrie Thompson
Office Helper	- Mrs. Cecilia Alfay

AUDITORS

Ernst & Young

Contact Information

APPENDIX V

For further information about the Commission's activities please contact the Fair Trading Commission at:

Mailing Address:	Good Hope Green Hill St. Michael BB12003 Barbados
Telephone:	(246) 424-0260 (246) 421-2FTC (Consumer Complaints Line)
Facsimile:	(246) 424-0300
E-mail:	info@ftc.gov.bb
Website:	www.ftc.gov.bb

Full marks for the Fair Trading Commission

“There are those among us who believe that it is pointless taking a case to the Fair Trading Commission when the complaint is against companies or individuals whom, by virtue of their connections or affiliations with the ruling political party, we deemed untouchable.

I am writing to give public kudos to the Commission for the efficient and professional manner in which it handled my case against a leading company here in Barbados, and for the success it was able to achieve on my behalf.

The staff at the Commission with whom I came into contact were friendly, patient and sympathetic and I would encourage anyone who feels that he has not been fairly treated in a trading transaction to refer to the Commission without hesitation.

Many thanks to the Fair Trading Commission.”

- A Happy Consumer

Notes



Notes

