

Fair Trading Commission

Annual Report 2007





2007 ANNUAL REPORT

FAIR TRADING COMMISSION







Letter of Transmittal

Fair Trading Commission
Manor Lodge
Lodge Hill
ST. MICHAEL

July 26, 2007

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 Accounts for the year ended March 31, 2007 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

Senator the Hon. Lynette Eastmond
Minister of Commerce, Consumer Affairs
and Business Development
Reef Road
Fontabelle
St. Michael





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Message from the Chairman

This annual report details the activities and operations of the Fair Trading Commission for the period April 01, 2006 to March 31, 2007. I hope that the information on the Commission contained in this report will prove both interesting and useful to the general public. Summarised below are some of the main activities and operations of the Commission during the period covered by the report.

The Commission issued its Findings on the review of the application of the fuel adjustment charge (FAC) and concluded that the Barbados Light & Power Company Ltd. (BL&P) was not profiting from this pass through charge.

The standards of service decisions for the BL&P and Cable & Wireless (Barbados) Limited (C&W) were implemented and extensively promoted to ensure that all stakeholders were fully informed.

The Commission issued its Findings relating to separate allegations of anti-competitive conduct by Arawak Cement Co. Ltd, C&W and the Barbados National Oil Company Ltd. which are detailed in this report.

The Commission filed and received a decision on a case stated which sought the Court's opinion on the payment of intervenors' expenses. A Costs Hearing relating to the request for payment by intervenors who appeared at the 2003 C&W rate hearing was convened while Costs Guidelines, Decision and Order were issued.

Several consumer complaints were resolved and discussions were held with some leading retail companies on the implementation of compliance programmes to assist in solving consumer complaints speedily and preventing breaches of the Consumer Protection Act.

The Commission also spent considerable time reviewing its legislation based on experiences over the past five years and submitted its recommendations to the Ministry of Commerce, Consumer Affairs and Business Development.

Mr. Stefan Mayers, Commissioner, tendered his resignation on June 6, 2006 to accept a position in the Ministry of International Business. On behalf of Commissioners and staff, I wish to express my thanks to him for his contribution to the work of the Commission.

I take this opportunity to welcome our new Commissioner, Mrs. Tammy Bryan, who was appointed on July 8, 2006 and to thank my fellow Commissioners and the staff of the Commission for their continuing support and efforts in helping the Commission to achieve its objectives during the year.



Neville V. Nicholls
Chairman

Members of the Commission 2006 - 2007



Top-from left: Commissioners Mr. Floyd Phillips, Mrs. Desiree Cherebin
Professor Andrew Downes

Bottom-from left: Commissioners Mr. Gregory Hazzard, Mr. Michael Thompson
Mr. George Thomas, Chairman - Sir Neville Nicholls, Mr. Trevor Welch,
Mr. Delisle Weekes, Mr. Andrew Brathwaite and Mrs. Tammy Bryan



Ms. Peggy Griffith, CEO
&
Ex Officio Board Member

The eleven (11) Commissioners of the Fair Trading Commission are appointed by the Minister of Commerce, Consumer Affairs and Business Development. They are vested with the responsibility, inter alia, for adjudicating on regulatory applications, making determinations, issuing orders and initiating prosecutions. During the year under review one (1) Commissioner, Mr. Stefan Mayers, resigned. Mrs. Tammy Bryan was appointed to this vacant position. The Chief Executive Officer is an ex-officio member of the Commission.

During 2006-2007 the Commission held seven (7) administrative meetings.

Regulatory and Fair Competition panels consisting of up to five (5) members hear and determine matters relating to utility regulation and fair competition. During the period, eleven (11) panel meetings were convened to adjudicate on matters placed before the Commission.



Fair Trading Commission at a Glance

Role of the Commission

The Fair Trading Commission was established on 2nd January, 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;
- Promoting the development of a competitive telecommunications market;
- 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 the work and staff of the Commission.

Statutory provision is made for the appointments of Directors to carry out the Commission’s mandate namely utility regulation, fair competition and consumer protection.

The General Legal Counsel provides legal advice to the Commission on all aspects of the Commission’s work including hearings, development of regulations, as well as appeals and reviews.

Commission staff provide a range of services to assist Commissioners in their adjudicative duties.

Commission Staff



Utility Regulation Division



Fair Competition Division



Consumer Protection Division

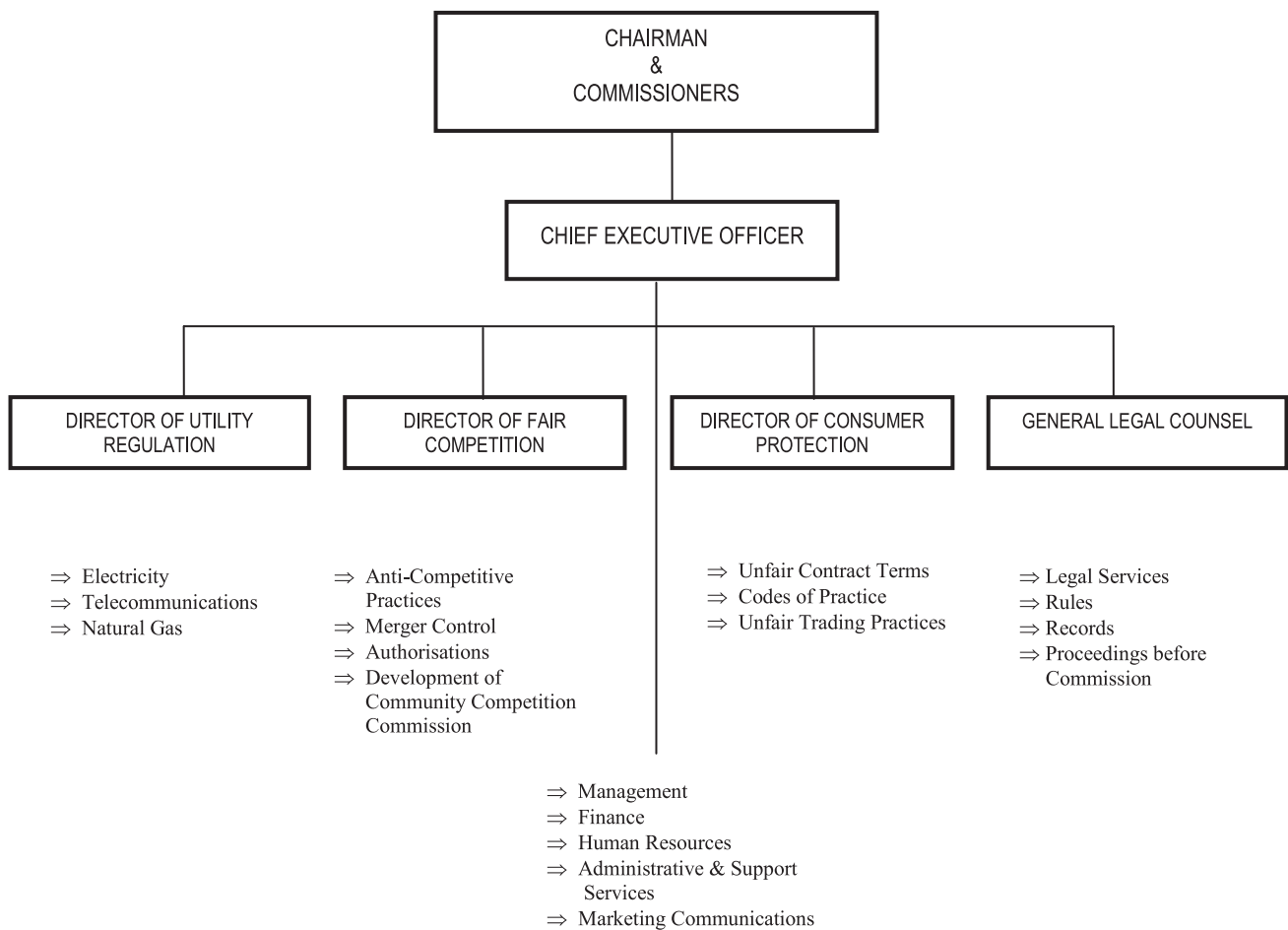


Administration Division



Legal Division

Organisational Structure





The Year in Review





Utility Regulation

The Utility Regulation Department seeks to ensure that residents in Barbados have access to reliable, reasonably priced, high quality services from regulated utility companies. The regulatory framework provides the facility for efficiently operated utilities to earn a reasonable return on capital. The services currently regulated by the Commission are domestic and international telecommunications, electricity, and natural gas.

Telecommunications

Liberalisation of the Telecommunications Sector

Interconnection Agreements

TeleBarbados officially launched its operation of international and domestic telecommunications services in Barbados on June 14, 2006. This followed the Commission's review and approval of the interconnection agreement between TeleBarbados and Cable & Wireless (Barbados) Limited (C&W) on June 9, 2006.

Interconnection agreements between the incumbent, C&W and Solutrea (B'dos) Inc, formerly Wiiscom, and C&W and Blue Communications were also approved on September 11, 2006 and November 8, 2006, respectively.

Price Cap

Under the Price Cap regime a number of changes were made to the prices of select telecommunications services during the year under review. Residential fixed access and international direct dialed service to three destinations experienced increases while decreases were recorded in leased circuits and call centre services.

The Commission reviewed C&W's Rate Increase Compliance Filings, Annual Compliance Filing and regulatory financial reports and was satisfied that the company's prices were in conformity with the Price Cap Decision. Review of the Price Cap mechanism will commence during the last quarter of 2007.

Review of Telecommunications Regulation

Staff of the Commission continued to participate in the Telecommunications Unit's Committee which is working on revisions to the Telecommunications Act and the development of new policies and regulations. The Commission provided written opinions to the Telecommunications Unit on a number of issues including universal service, voice over internet protocol (VoIP), number portability and local loop unbundling.



Utility Regulation (continued)

Cost Assessment Guidelines

In January 2007 the Commission issued its Decision on the Cost Assessment Guidelines. These guidelines which were developed to assist the Commission and persons appearing before it in relation to the awarding of costs included a written public consultation which commenced in December 2005. One issue raised during the consultation was whether the Commission can grant sums other than out of pocket expenses to intervenors. Some respondents objected to the honorarium clause that was included in the guidelines. The Commission decided that the matter would best be resolved through the Courts and thus filed a case stated as detailed below.

Case Stated

The Commission stated a case for the opinion of a Judge under section 41 of the **Fair Trading Commission Act CAP. 326B**. The case stated was heard before The Honourable Justice Blackman on May 10, 11 and 12, 2006.

The following questions were asked by the Commission of the Court:

1. Whether the discretionary power given to the Commission under section 46 of the **Fair Trading Commission Act CAP. 326B** allows the Commission to award costs to intervenors who were not represented by Legal Counsel for preparing and appearing at a Commission proceeding.
2. Whether the discretionary power given to the Fair Trading Commission under section 46 of the Fair Trading Commission Act CAP. 326B allows the Commission to award an honorarium to intervenors who were unrepresented by Legal Counsel in recognition of individual efforts in preparing and presenting a submission to the Commission.
3. Whether on the basis of settled practice in Barbados, a person who is unrepresented by Legal Counsel and appearing before an administrative tribunal, is limited to an award of out of pocket expenses only where a power to award costs exists.

A decision was delivered by the Honourable Justice Blackman on September 28, 2006. The Court answered the first question in the negative, the second in the negative and the third in the affirmative.



Utility Regulation (continued)

Costs Hearing

The Costs Hearing on the application for costs by intervenors in the C&W's Rate Application was held on February 14, 2007. The Commission Panel of Sir Neville Nicholls, Professor Andrew Downes and Mr. Gregory Hazzard began review of the oral and written submissions. A decision is expected during the second quarter of 2007.

Electricity

Analysis of the Fuel Adjustment Charge - Barbados Light & Power Company Ltd. (BL&P).

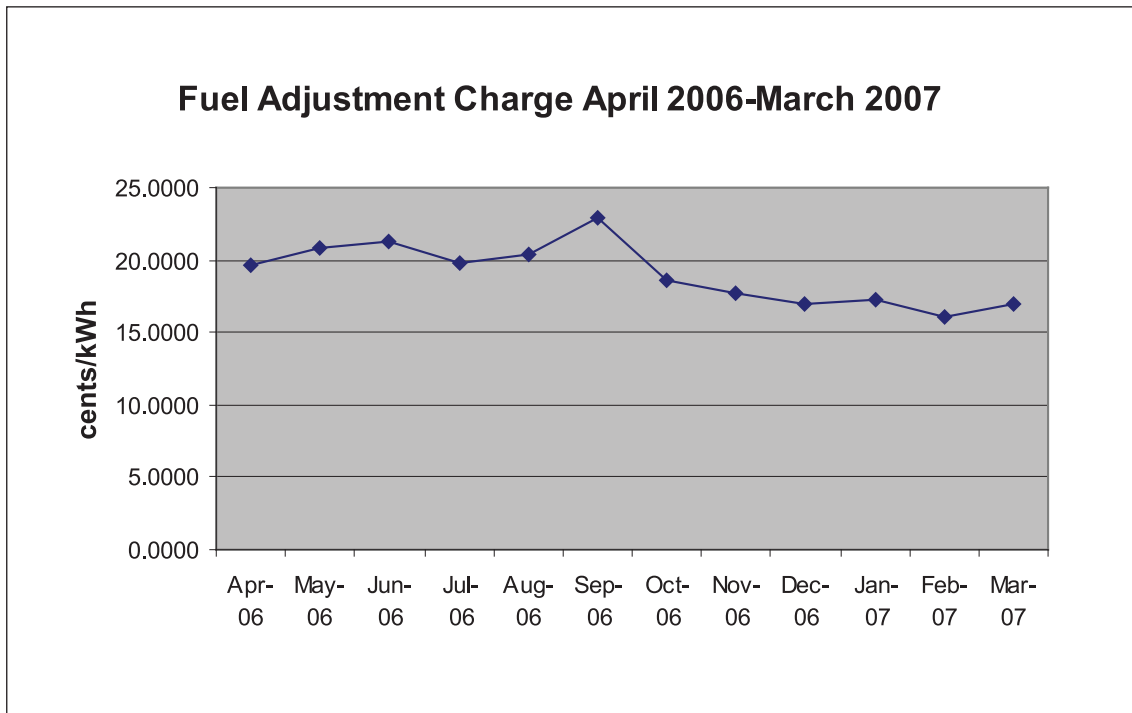
The Commission issued a Fuel Adjustment Charge Findings report in January 2007 incorporating the findings of consultants CASTALIA Strategic Advisors (Castalia) who were engaged by the Commission to review the application of the fuel adjustment charge. In the report the Commission endorsed the recommendation of Castalia to maintain the current method of calculating the fuel adjustment charge which also allowed the company to use the "smoothing" technique to eliminate spikes in the electricity bill.

Additionally, the Commission determined that its regulation and oversight would include the monitoring of heat rates and line losses which are key indicators of the technical efficiency of the BL&P's operations. The Commission began working with the BL&P to improve the public's understanding of the methodology used in the application of the fuel adjustment charge.

The fuel adjustment charge was consistently above 19 cents per kWh during the first half of the financial year, reaching a maximum of 22.94 cents per kWh in September 2006. The charge however decreased markedly after October 2006 and reached a minimum of 16.01 cents per kWh in February 2007. The highest fuel adjustment charge in 2006-2007 was 3 cents per kWh higher than the charge in December 2005, which was the highest charge in the period 2005-2006.

Utility Regulation (continued)

Table 1: Fuel Adjustment Charge April 2006-March 2007



Regulatory Audit

In 2006 the Commission received the final report from NERA Economic Consulting which was engaged to perform a regulatory audit of the BL&P. The audit included an examination of the utility's costs and revenue structure and a review of the methods used by the BL&P to assign, allocate and apportion such costs for its service. It also sought to determine whether the current rate structure is appropriate for all classes of service in the current economic environment. The Commission is continuing its examination of the issues raised in the report.

Natural Gas

National Petroleum Corporation

The Commission addressed issues pertaining to the delivery of natural gas service. Additionally, research on the regulation of natural gas was completed. The research examined the types of regulation used in other jurisdictions and the issues that may arise in the regulation of this sector. The research also discussed the applicability of incentive based regulation and the establishment of standards of service that meet international best practices, while taking into consideration Barbados' socio-economic environment.



Utility Regulation (continued)

Regulatory Reporting

Regulatory reports on the operations of the BL&P and the National Petroleum Corporation were prepared based on monthly submissions from the companies. The reports monitored and assessed reliability, capacity, efficiency, and the financial standing of the companies. The submissions from these companies included information on input costs, revenue summaries and major outage statistics.

C&W regulatory reporting includes the submission of telecommunications indicators and, in accordance with the price cap rules, half yearly financial reports and service specific finances.

Standards of Service

The Standards of Service for the BL&P and C&W, which were prepared by the Fair Trading Commission in consultation with these companies, came into effect from June 1st, 2006. There was also an intense public relations campaign to educate and inform the public about the Standards of Service and the public continued to contact the Commission seeking guidance and clarification. The Commission also reviewed the level of compliance by way of quarterly reports submitted by service providers.

Barbados Light & Power Company Ltd. (BL&P)

Guaranteed Standards have been set in areas such as fault repair, investigation of voltage complaints, installation of service and reconnection of service after disconnection for nonpayment. Overall Standards have been set in areas such as frequency of meter reading, prior notice of outages and response time to written standards of service complaints. Overall Standards also include the calculation of reliability indices which give an indication of frequency and average duration of outages.

A review of the reports indicated that, for example, the level of compliance by the BL&P for the standard of service set for installation of a simple service connection with a target of 12 working days, the target was met over 80% of the time.

Cable & Wireless (Barbados) Limited (C&W)

Guaranteed Standards have been set for installation of service, fault repair, repeated loss of service, customer appointments, wrongful disconnection and reconnection after disconnection for nonpayment. Overall Standards relating to the performance of the company have been set for fault repair, working payphones, trunk blocking, repeated loss of service and billing accuracy. The public

Utility Regulation (continued)

continued to contact the Commission seeking guidance and/or clarification on standards of service issues relating mainly to installation and fault repair.

A review of the reports indicated that, for example, the level of compliance by C&W for fault repair for business customers was over 75%. This Guaranteed Standard had a target of 8 working hours in the dry season and 16 working hours in the wet season.

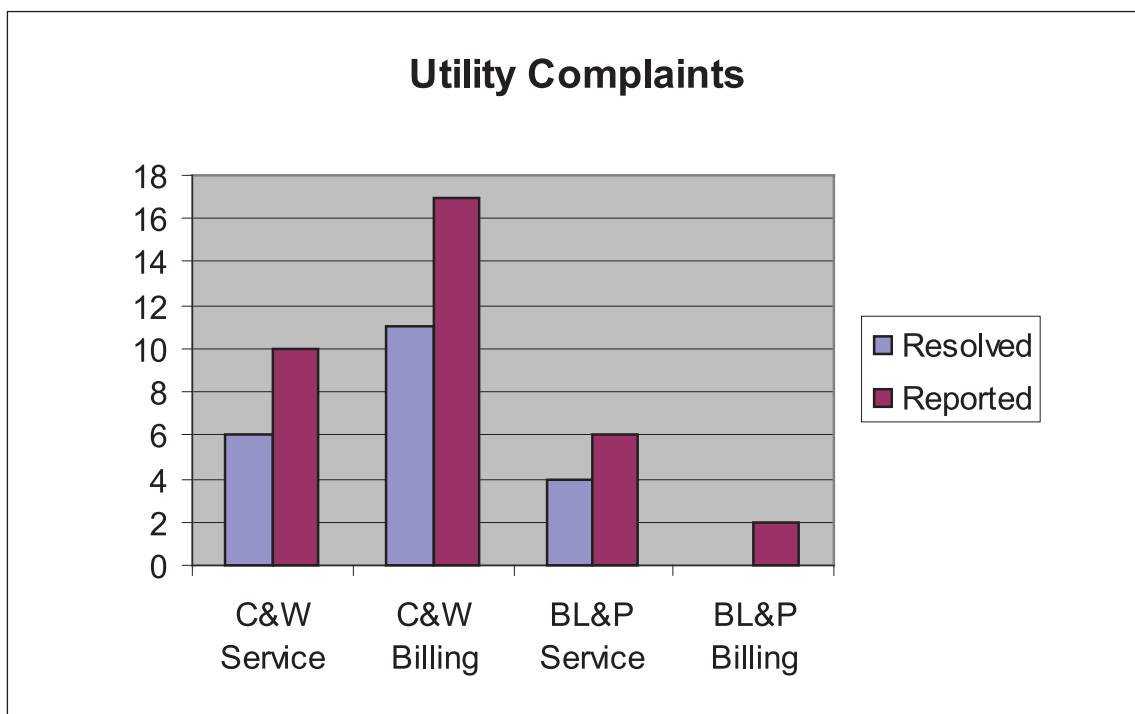
Utility Regulation Research

During the period under review, officers were engaged in research in several areas including incentive regulation for the electricity sector, approaches to the regulation of the natural gas industry and alternative asset valuation methods. Additionally, in preparation for the expected expansion of the Commission's areas of responsibility, research on water and transport regulation was undertaken.

Utility Queries/Complaints

The Commission, to protect the interest of consumers, hears and determines utility complaints. The Commission responded to over 170 queries while 35 investigations were conducted as categorised below.

Table 2: Utility Complaints





Fair Competition

The Fair Competition Department has responsibility for the administration of the Fair Competition Act. The main objectives are the promotion, maintenance and encouragement of competition in Barbados.

Anti-Competitive Practices

The core activity of the Department is the investigation of anti-competitive conduct. The Department conducted investigations into allegations of anti-competitive conduct in the areas of cement manufacturing and distribution, fuel oil distribution, telecommunications and food distribution. The following are three major investigations completed during the reporting period, all of which involved alleged abuses of dominance.

1 Arawak Cement Company Ltd.

In December 2006, the Commission determined that Arawak Cement Company Limited (ACCL), as the dominant and only manufacturer of cement in Barbados, forcibly tied the delivery of cement to the manufacture of cement. Given that the affected Authorised Cement Distributors had adjusted to the new delivery arrangements, the Commission directed pursuant to Section 18 (1) of the Fair Competition Act that Arawak cease the abusive practice and in the future grant the option to those Authorised Cement Distributors, who wish to make alternative delivery arrangements, the opportunity to do so. Shortly thereafter, Arawak agreed to comply with the Commission's directive.

2 Cable & Wireless (Barbados) Limited (C&W)

It was alleged that C&W was engaged in excessive pricing of the rates for international wholesale voice telephony services which was not consistent with rates expected in a competitive market. The Commission found that while C&W's international wholesale rates were higher than those expected in a competitive market, these rates were set at a level to accommodate the rebalancing of the domestic residential rates. The action was therefore found not to be a breach of the Fair Competition Act.

3 The Barbados National Oil Company Limited

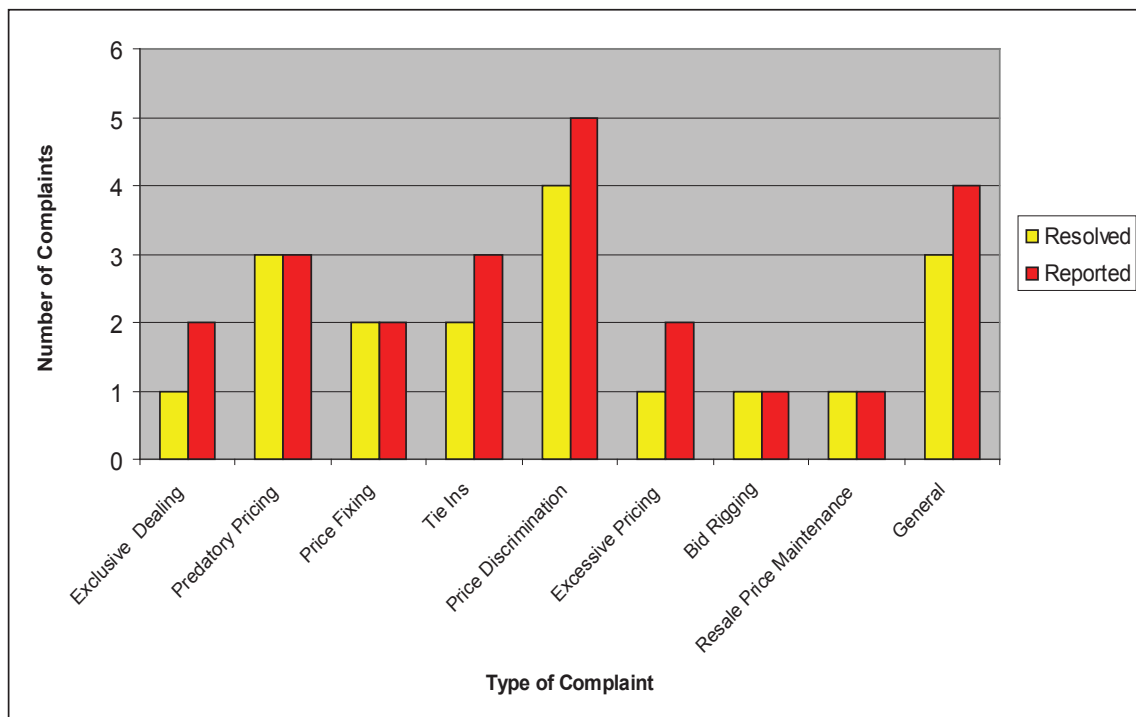
The Barbados National Oil Company Limited (BNOCL) was alleged to be abusing its dominance in the market for the provision of fuel oil to the BL&P. In December 2006, the Commission issued its decision in this matter, ruling that BNOCL had acted in breach of the Fair Competition Act. Prior to issuing its decision in the matter the Commission was challenged by BNOCL in the High Court. This matter is pending.

Fair Competition (continued)

Complaints

On the basis of complaints received and also on its own initiative the Commission conducted inquiries into 23 cases of alleged anti-competitive conduct. The majority of inquiries concerned allegations of abuse of dominance, namely price discrimination, tied selling, predatory pricing, and general unfair practices. In the period under review eighteen (18) of these matters were resolved. Details of these are set out in Table 3.

Table 3: Anti-Competitive Conduct – Type and Number of Domestic Complaints (April 1, 2006 – Mar. 31, 2007)



Price Study

In December 2006, the Commission completed an investigation into pricing levels and practices in the food distribution industry and submitted a report of the findings to the Ministry of Commerce, Consumer Affairs and Business Development. The report concluded that the increasing prices in the food industry were the result of increasing domestic costs, increasing imported costs, monopolistic pricing strategies, limited consumer information and sustained consumer demand. The release of the report's findings led to substantial public debate on the subject and acted as a catalyst for the introduction of a price monitoring and management programme to be coordinated by the Ministry of Commerce.



Fair Competition (continued)

Merger Guidelines

The Commission undertook a public consultation on its draft “Merger Guidelines” during the period April 30th to June 9th, 2006. The consultation was aimed at gathering a cross section of views on the draft document which is designed to establish the procedures for the administration of merger applications coming before the Commission. Several insightful responses were received from key industry stakeholders. These responses were analysed and where relevant, incorporated into the document. The Commission expects to release the Merger Guidelines shortly.

Competition Research

The Commission is required at Section 5 (6) (c) of the Fair Competition Act to undertake studies and publish reports and information regarding matters affecting the interest of consumers. Staff of the Department completed preliminary research relating to competition in the commercial banking sector and price reductions in the telecommunications industry. These focused on identifying issues that have implications for the maintenance of competition in Barbados. The findings will be used to undertake more in-depth market investigations in the next financial year.



Consumer Protection

The enforcement of the rights granted to consumers under the Consumer Protection Act, CAP 326D “the Act” is of paramount importance to the Commission.

During the period April 1, 2006 – March 31, 2007 the Commission sought to ensure that:

- unfair contract terms were not included in standard form contracts;
- contract terms were not ambiguous and were written in plain intelligible language;
- misleading promotional information was not included in supplier’s advertisements and where such information was found to be contained in an advertisement, it was amended expeditiously;
- suppliers provided consumers with sufficient information, so that they could make informed decisions before entering into contracts with suppliers;
- important information was not hidden in fine print.

Fairness in Contracts

The Commission continued to examine suppliers’ standard form contracts for unfair clauses which purport to exclude, reduce or mislead consumers about their rights and their ability to make legal claims.

During the period under review, the Commission began an analysis of the contract terms of fourteen (14) suppliers. Some suppliers were advised to revise or delete those terms which the Commission considered to be unfair. These included terms which purported to exclude liability and terms which misled consumers as to their rights under the consumer protection legislation.

Misleading Advertising

The Commission advised several businesses which quoted their goods and services in US dollars that they should also state the equivalent price of the goods and services in Barbados dollars. The Commission also advised businesses displaying the ‘No Refund/No Exchange’ sign to desist from so doing, as signs of this nature were illegal under the Consumer Protection Act. Businesses were also advised to ensure that the prohibited statement did not appear on their invoices, contracts, sales receipts or other documents.

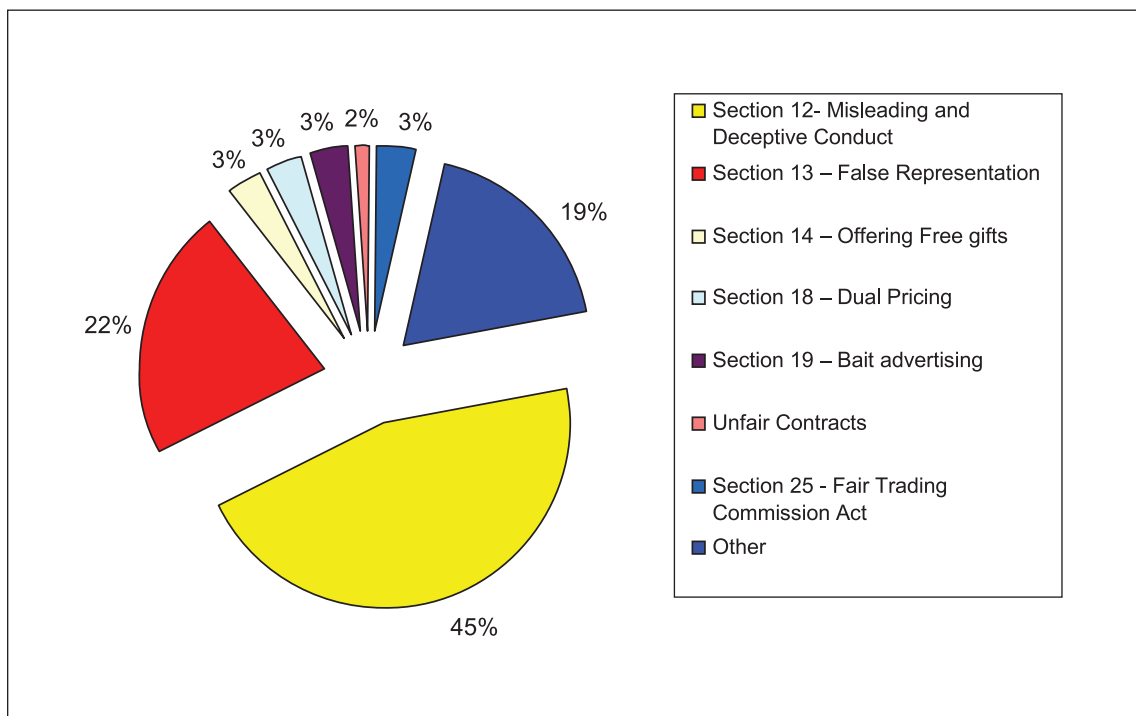
A number of businesses were found to be displaying goods for sale at lower prices but at the point of sale quoted higher prices. These businesses were advised by the Commission that this practice was illegal. The Commission also advised these businesses to implement a Compliance Programme to reduce any further breaches of the Act.

Consumer Protection (continued)

Complaints

The Commission received forty-seven (47) complaints, thirty six (36) of which were resolved during the period.

Table 4: Consumer Protection Complaints
April 1 2006 – March 31, 2007



Queries

During the review period, two thousand and nineteen (2,019) consumers contacted the Commission seeking guidance. Of this number, two hundred and twenty-eight (228) persons visited the Commission's office.

Seven hundred and forty-six (746) consumers were referred to the Office of Public Counsel after the details of the inquiries were evaluated.



Public Education and Awareness

Third Annual Public Lecture

On February 23, 2007, the Commission hosted its third annual public lecture entitled “Walking the Tightrope – Balancing Competing interests in Pursuit of Good Public Policy” at the Hilton Barbados. The event was attended by persons from the private and public sectors, stakeholders, consumers and other interested parties.

The Lecture was delivered by Mr. Ashley Brown, an Attorney-at-Law, and Legal Consultant with the Boston Law firm of LeBoeuf, Lamb, Greene and McRae LLP. Mr. Brown is the author of numerous legal publications, has had extensive teaching experience in colleges and universities and is a frequent speaker and lecturer on regulatory, infrastructure and energy policy matters. He is also the Director of the Harvard Electricity Policy Group.

Regulatory Decision Making Workshop

The Commission also organised a workshop entitled “Regulatory Decision Making - What are Stakeholders Entitled to Expect?” on the morning of February 23, 2007. This event featured Mr. Brown who was joined by fellow panellists Mr. Barry Carrington, Public Counsel, Office of Public Counsel, Mr. Chelston Bourne, Chief Telecommunications Officer, Telecommunications Unit – Ministry of Economic Affairs and Development, Mrs. Glenda Medford, Vice President Legal and Regulatory, Cable & Wireless (Barbados) Ltd., Mr. David Ellis, Manager of News and Public Affairs, Starcom Network Inc. and Mr. Jai Jebodhsingh, Chairman, Consumer Watch Committee, Barbados Association of Retired Persons. This event was attended by a wide cross section of persons including university students, the public and private sectors, representatives from consumer organisations and members of the general public.

Public Education and Awareness (continued)



Mr. Ashley Brown, Attorney-at-Law, Author, Legal Consultant
& Executive Director Harvard Electricity Policy Group



From Left: Mr. Ashley Brown & Ms. Peggy Griffith,
Chief Executive Officer, Fair Trading Commission

Public Education and Awareness (continued)



From Left: Mr. Elson Gaskin, General Legal Counsel, Fair Trading Commission, Mr. Chelston Bourne, Chief Telecommunications Officer, Ministry of Economic Affairs & Development, Mr. David Ellis, Manager of News and Public Affairs, Starcom Network Inc., Mr. Ashley Brown (Featured Speaker), Mr. Barry Carrington, Public Counsel, Office of Public Counsel, Mr. Jai Jebod Singh, Barbados Association of Retired Persons, Ms. Glenda Medford, Vice President – Legal & Regulatory, Cable & Wireless (Barbados) Ltd.



From Left: Sir Neville Nicholls, Chairman, Fair Trading Commission, Lady Nicholls, Dr. Marion Williams, Governor, Central Bank of Barbados, Sir Richard Cheltenham, Senator The Honourable Lynette Eastmond, Minister of Commerce, Consumer Affairs and Business Development



Public Education and Awareness (continued)

5th Anniversary Feature

The Commission celebrated its 5th Anniversary by publishing a Special Feature in both the midweek Nation on October 18th and the Sunday Advocate on November 18th, 2006. The feature highlighted the Commission's achievements over the five year period and included messages from the Chairman and the Minister of Commerce, Consumer Affairs and Business Development. A history of the organisation and articles and photographs from the various Departments of the Commission were also included. The following comments included in the feature provide greater insight into the role of the Commission:

Minister Lynette Eastmond "The FTC has now established itself in Barbados as a highly respected institution that will ensure that the Barbados market is competitive and that consumers are protected..."

Chairman, Sir Neville Nicholls "The Commission will continue to enforce its fair competition and consumer protection laws to provide for an environment where the market is competitive and the interests of consumers are protected. We will also ensure that our procedures and practices are transparent and that we carry out our activities with the highest level of professionalism."

Chief Executive Officer, Ms. Peggy Griffith "...for us the challenge will be to keep innovating in ways that are useful to Barbados while at the same time ensuring that we keep abreast of the many changes and developments in areas that impact our work".

Other Public Education Programmes

The Commission organised a number of workshops at selected business premises to discuss issues that were pertinent to the specific business, and provided the business with greater understanding of the Consumer Protection Act (CPA).

The CPA was also promoted by way of "Giggurd and Boo" television skits. Officers of the Consumer Protection Division were guests on radio and television programmes and answered suppliers' and consumers' queries. Staff also visited schools, community groups and other organisations and disseminated information on consumer protection issues to the public.

In addition, visits were made to over 100 stores to ensure that they were in compliance with the Act.

Staff of the Fair Competition Department visited the careers showcase of the Young Economists Organisation of the University of the West Indies, Cave Hill Campus, to discuss competition issues with students. A presentation was also made on the Commission's experience in the enforcement of Competition law and policy to the class enrolled in the Masters in International Trade Policy.

Public Education and Awareness (continued)

Training Programme - Preparing for a Rate Case Application/Review

The Commission collaborated with IP3 of Washington, D.C. in July, 2006 to host the training course “Preparing for a Rate Case Application/Review: Data Collection, Document Presentation and Public Hearings” which was delivered by Mr. David Jankofsky, Senior Associate and Instructor of IP3. The modules addressed the informational requirements of a rate hearing, and the Rate of Return and Price Cap methodologies.

Local participants included FTC Commissioners and staff, representatives of Cable & Wireless (Barbados) Limited, the Barbados Light & Power Company Ltd., National Petroleum Corporation, Barbados Water Authority, Transport Board and the legal profession. Overseas participants included staff from regulatory authorities in Trinidad & Tobago and Panama. The training sessions also provided the opportunity for regulators to interact with service providers and gain an appreciation of the regulatory challenges faced by regulated entities.



FTC Training Programme - From Left: Mr. Desmond Sabir, Mr. Ian Jessamy and Ms. Lynda Holder of the Barbados Transport Board



Public Education and Awareness (continued)

Published Articles

The Commission continued to contribute relevant and topical articles on all aspects of its work to the Nation Newspaper and the Business Monday section of the Barbados Advocate as well as to local and regional publications. The Commission contributed articles to the Ministry of Commerce's Newsletter, the Jamaica Fair Trading Commission's Annual Competition Publication, the Euromoney international magazine and the Global Competition Review. These articles are available on the Commission's website at www.ftc.gov.bb.



Organisational Development

Review of Legislation

In April 2006, the Commission determined that the legislation it administers should be reviewed in light of its operational experience over the past five years.

The Commission completed a review of the Fair Trading Commission Act, CAP. 326B, Utilities Regulation Act, CAP. 282, the Fair Competition Act, CAP. 326C and the Consumer Protection Act, CAP. 326D. A matrix was prepared in relation to each piece of legislation incorporating, where convenient, the existing provisions, the institutional experience and suggested changes to make the legislation more effective. These recommendations were submitted to the Ministry of Commerce, Consumer Affairs and Business Development.

In addition, the Commission also proposed changes to the Utility Regulation (Procedural) Rules, 2003. These proposed changes were made available for public comment. Comments were also sought from the utility service providers. Recommendations, where relevant, were incorporated into a draft document which has been submitted to the Ministry of Commerce, Consumer Affairs and Business Development for approval.

Training & Development

The need for efficiency in its operation requires that staff of the Fair Trading Commission keep abreast of new developments in the increasingly complex energy, telecommunications and water sectors, as well as in the areas of Fair Competition and Consumer Protection.

During the reporting period, the Commission continued to take advantage of a range of training and developmental opportunities. These included participation in workshops, conferences, courses and seminars, both at the local and international levels.

Participation also created opportunities for building and cementing professional relationships with other regulatory specialists, utility officials, attorneys and service providers worldwide.



Organisational Development (continued)

Regional and International Cooperation

The Commission continued to be involved in a number of regional and international initiatives designed to improve the standards of enforcement and awareness of competition in Barbados, regionally and internationally.

Cooperation with the Community Competition Commission

A regional task force was established to oversee the implementation of the Community Competition Commission (CCC). The Fair Trading Commission has been instrumental in facilitating the work of this task force which dealt in this period with issues such as:

- Funding for the new CCC which is to be provided by the various Member States;
- Utilisation of funds offered by the European Union (EU) for the establishment of the organisation;
- Planned inauguration of the Community Competition Commission on November 30, 2007;
- the status of signature of the Agreement Establishing the Seat and Offices of the Competition Commission between the Government of Suriname and the Caribbean Community and the Protocol on the Privileges and Immunities of the Competition Commission;
- the establishment of the sub-regional competition authority to perform the function of national authority for the OECS territories; and
- Suriname's progress in preparing the physical accommodation to house the Community Competition Commission.

Cooperation with Regional Agencies

The Commission hosted officials from the Ministry of Trade and Industry (MTI) in Trinidad & Tobago (T&T). The visit gave the T&T team an opportunity to study the modus operandi of the Commission especially as it relates to Competition Policy administration and Consumer Protection.



Organisational Development (continued)

Cooperation with International Agencies

The Commission was again nominated to chair Subgroup 2 of the Competition Policy Implementation Group of the International Competition Network (ICN). The ICN promotes more efficient and effective antitrust enforcement worldwide. The research in the reporting period centered on an “Analysis of Institutional Machinery for successful Competition Law enforcement”.

The Commission conducted a survey in this regard to gather information on the types of institutional competition machinery employed by the various countries while assessing their comparative effectiveness. In undertaking such a project the Commission sought the support of some international academics and practitioners in the field. The results of the study will be presented at the ICN Annual Conference in June 2007.

In April 2006 at the 5th Annual ICN meeting held in Cape Town, South Africa, Ms. Peggy Griffith, Chief Executive Officer of the Commission, presented the report on the project entitled “Lessons to be learnt from the Experiences of Young Competition Agencies”. The report which was very well received provided valuable lessons for young agencies worldwide in the development of their respective agencies.



Looking to the Future

The Commission will continue to execute its mission “to be a transparent and accountable agency providing professional services to those whom we serve, thereby safeguarding the interest of consumers, promoting and encouraging fair competition and ensuring efficient regulated utility services”. It will seek to strengthen its procedures, improve effective enforcement and improve response time for handling complaints and completion of investigations.

The Commission will implement programmes aimed at further sensitising stakeholders on the role of the Commission and the legislation it administers. This will include publishing of articles, special outreach programmes and seminars.

In addition to regulating the natural gas, electricity and the dominant telecommunications provider, the Commission will continue to prepare for the regulation of the Barbados Water Authority (BWA) through examination and research on water regulation issues. It will also undertake research into standards of service for the National Petroleum Corporation.

The Commission will initiate its own investigations as well as investigate complaints of alleged breaches of the Fair Competition Act, while at the same time, guiding and educating business on how to be compliant with this Act. Staff will also work closely with sister organisations in CARICOM in regard to the Community Competition Commission which is expected to be established on November 30, 2007.

The Commission will seek to develop voluntary industry codes in association with industry groups of the Barbados Manufacturers Association and the Barbados Chamber of Commerce. Businesses will also be encouraged to implement in-house monitoring programmes to prevent breaches of the Consumer Protection Act.



Financial Statements
Fair Trading Commission
For the year ended March 2007
(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 balance sheet as of March 31, 2007 and the statement of income and expenditure and cash flow statement for the year then ended and a summary of significant accounting policies and other explanatory notes.

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. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditors' Responsibility

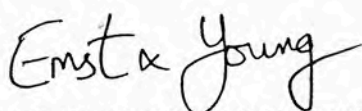
Our responsibility is to express an opinion on these consolidated financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable 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 auditor's judgement, 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 March 31, 2007 and its operations and its cash flows for the year then ended in accordance with International Financial Reporting Standards.



CHARTERED ACCOUNTANTS

Barbados
July 18, 2007


FAIR TRADING COMMISSION


Balance Sheet
As at March 31, 2007

	Notes	2007 \$	2006 \$
Assets			
Current assets			
Cash		1,708,507	2,020,580
Time deposits	3	143,816	85,439
Receivables	4	994,040	2,246,676
Prepayments		149,090	94,573
		<hr/>	<hr/>
Office equipment, fixtures and vehicles	5	2,995,453 253,352	4,447,268 257,319
		<hr/>	<hr/>
		3,248,805	4,704,587
Liabilities			
Current liability			
Accounts payable		107,593	200,747
Deferred income	6	253,352	257,319
		<hr/>	<hr/>
		360,945	458,066
Net assets		<hr/>	<hr/>
		2,887,860	4,246,521
Represented by:			
Government advances		911,403	2,199,476
Government grants		1,926,109	2,000,989
Surplus		50,348	46,056
		<hr/>	<hr/>
		2,887,860	4,246,521

The accompanying notes form part of the financial statements.

Approved by the Commission on July 18, 2007 and signed on its behalf by:


.....Chairman


.....Commissioner

FAIR TRADING COMMISSION

Statement of Income and Expenditure Year ended March 31, 2007

	Notes	2007 \$	2006 \$
Income			
Government grant		2,760,506	2,484,002
Levies	4	911,403	1,077,152
Gain on sale of vehicle		-	28,595
Other income		4,292	12,521
		<u>3,676,201</u>	<u>3,602,270</u>
Expenditure			
Personal emoluments	8(c)	1,689,889	1,585,043
Other operating expenses	8(a)	471,911	523,234
Professional services	8(b)	241,481	408,560
Rental of property		449,505	397,747
Rental of equipment		22,563	-
Depreciation	5	87,344	96,738
Pensions and gratuities	8(c)	197,055	90,514
Utilities		95,956	89,591
National Insurance contributions	8(c)	101,162	88,703
Supplies and materials		98,851	85,790
Other personal emoluments	8(c)	85,049	68,556
Maintenance of property		38,115	46,944
Library books and publications		22,891	28,314
Travel		18,609	22,001
Group medical		24,535	19,049
Subscriptions and contributions		24,102	10,538
Miscellaneous		2,891	(168)
		<u>3,671,909</u>	<u>3,561,154</u>
Net income over expenditure		<u>4,292</u>	<u>41,116</u>

The accompanying notes form part of the financial statements.

FAIR TRADING COMMISSION

Statement of Cash Flows Year ended March 31, 2007

	2007 \$	2006 \$
Cash flows from operating activities		
Personal emoluments	(1,689,889)	(1,585,043)
Other personal emoluments	(56,990)	(68,199)
National Insurance contributions	(84,823)	(89,267)
Group Medical	(16,250)	(19,049)
Travel	(18,609)	(22,000)
Utilities	(92,657)	(90,013)
Rental of property	(504,804)	(398,667)
Rental of equipment	(22,563)	-
Library books and publications	(22,891)	(28,314)
Supplies and materials	(98,276)	(85,524)
Maintenance of property	(40,743)	(49,573)
Other operating expenses	(468,351)	(565,979)
Subscriptions and contributions	(24,102)	(10,537)
Pensions and gratuities	(197,055)	(90,514)
Professional services	(486,117)	(405,759)
Miscellaneous	(2,891)	168
Net cash used in operating activities	(3,827,011)	(3,508,270)
Cash flows from investing activities		
Car loans disbursed to staff	(35,000)	-
Car loans repaid by staff	29,625	27,875
Proceeds from disposal of office equipment, fixtures and vehicles	-	70,000
Increase in time deposits	(58,377)	(2,021)
Interest received	4,292	2,021
Purchases of office equipment, fixtures and vehicles	(83,377)	(255,012)
Net cash used in investing activities	(142,837)	(157,137)
Cash flows from financing activities		
Advances from Government	3,687,837	3,707,379
Levies paid in by utility service providers	2,169,414	2,965,808
Public hearing contributions	-	20,700
Repayment of advances	(2,199,476)	(2,660,885)
Merger fees	-	10,500
Building reserve	-	(58,515)
Net cash from financing activities	3,657,775	3,984,987
(Decrease) increase in cash for the year	(312,073)	319,580
Cash – beginning of year	2,020,580	1,701,000
Cash – end of year	1,708,507	2,020,580

The accompanying notes form part of the financial statements.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended March 31, 2007

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*, *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 registered office is at the Manor Lodge Complex, Lodge Hill, St. Michael, Barbados.

2. Significant accounting policies

The financial statements have been prepared in accordance with International Financial Reporting Standards which comprise standards and interpretations approved by the International Accounting Standards Board and International Accounting Standards and Standing Interpretations Committee interpretations approved by the International Accounting Standards Committee.

The most significant policies are summarised below:

a) Basis of preparation

These financial statements are prepared under the historical cost convention and expressed in Barbados dollars. No account is taken of the effects of inflation.

b) Cash

Cash consists of cash in hand and cash held in banks.

c) Receivables

Receivable balances are reported at cost less adjustments for doubtful amounts.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended March 31, 2007

2. Significant accounting policies (cont'd)

d) Office equipment, fixtures and vehicles

Office equipment, fixtures and vehicles are stated at cost less accumulated depreciation and accumulated impairment in value. The carrying value of office equipment, fixtures and vehicles are 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 software, hardware and office equipment	1 - 5 years
Office furniture	5 years
Vehicles	5 years

e) Income recognition

Income is recognised 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 capitalised as deferred income in the year of acquisition and recognised over the useful lives of the relevant assets.

f) Taxation

The Commission is exempt from taxation.

g) Use of estimates

The preparation of these financial statements in conformity with International Financial Reporting Standards, requires that management makes estimates and assumptions that effect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended March 31, 2007

3. Time deposits

Time deposits comprise \$44,055, \$45,676 and \$54,085 which bear interest at rates of 6.00%, 5.75% and 5.40% per annum respectively (2006 – \$41,857 and \$43,582 at rates of 6.00% and 5.50% respectively). The deposits are due to mature on November 15, 2009, February 14, 2008, and September 13, 2008 respectively.

4. Receivables

	2007	2006
	\$	\$
Utility service providers	911,403	2,169,414
Car loans receivable	82,637	77,262
	<hr/>	<hr/>
	994,040	2,246,676
	<hr/> <hr/>	<hr/> <hr/>

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.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended March 31, 2007

5. Office equipment, fixtures and vehicles

	Computer and Office Equipment \$	Fixtures \$	Vehicles \$	Total \$
Cost				
Balance – beginning of year	295,938	246,197	237,655	779,790
Additions	81,683	1,694	-	83,377
Balance – end of year	377,621	247,891	237,655	863,167
Accumulated Depreciation				
Balance – beginning of year	255,640	203,565	63,266	522,471
Charge for the year	26,721	13,092	47,531	87,344
Balance – end of year	282,361	216,657	110,797	609,815
Net book value				
At end of year	95,260	31,234	126,858	253,352
At beginning of year	40,298	42,632	174,389	257,319

6. Deferred income

	2007 \$	2006 \$
Deferred income – beginning of year	257,319	257,448
Less: Amounts transferred to government grant	(3,967)	(129)
Deferred income – end of year	253,352	257,319

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended March 31, 2007

7. Lease commitments

During the year the Commission had the following operating lease agreements, the total amount falling due in the following periods:

	2007	2006
	\$	\$
Property rental:		
Due within 1 year	449,505	180,000
Between 2 and 5 years	449,505	-
	<hr/>	<hr/>
	899,010	180,000
	<hr/> <hr/>	<hr/> <hr/>

8. Operating expenses

a) Other operating expenses

	2007	2006
	\$	\$
Overseas training	257,589	242,106
Local training	22,287	14,854
Hosted seminars	56,173	78,740
Refreshments and hospitality	22,997	17,330
Commissioners' fees	44,428	104,628
Public relations	42,725	54,314
FTC publications	23,965	7,590
Postage and courier services	1,747	3,672
	<hr/>	<hr/>
	471,911	523,234
	<hr/> <hr/>	<hr/> <hr/>

b) Professional services

	2007	2006
	\$	\$
Regulatory consultancies	161,080	320,336
Other consultancy services	62,331	58,474
Legal fees	-	12,500
Audit fees	18,070	17,250
	<hr/>	<hr/>
	241,481	408,560
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FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended March 31, 2007

8. Operating expenses (cont'd)

c] Employment costs

	2007	2006
	\$	\$
Personal emoluments	1,689,889	1,585,043
National Insurance contributions	101,162	88,703
Other personal emoluments	85,049	68,556
	<hr/>	<hr/>
	1,876,100	1,742,302
	<hr/> <hr/>	<hr/> <hr/>

Pension payments for retired employees and gratuities to contracted employees amounted to \$197,055 (2006 – \$90,514).

9. Financial instruments

Fair value

The carrying values of short-term assets and liabilities are a reasonable estimate of their fair value because of the short term to maturity of these instruments. Short-term financial assets comprise cash and receivables. The short-term financial liability consists of accounts payable.

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.

Interest rate risk

The Commission does not consider itself to be exposed to significant interest rate risk.



Appendices



Consultation Papers, Reports, Decisions and Orders

APPENDIX I

Public Consultation

Merger Guidelines

April 30, 2006

Utility Regulation (Procedural) Rules 2003

October 01, 2006

Decisions & Orders

Costs Assessment Decision, Order & Guidelines

January 17, 2007

Reports

Fuel Adjustment Charge Findings Report

January 19, 2007

Enquiry into the Food Distribution Industry
in Barbados

February 26, 2007

High Court

Case Stated on payment of costs to intervenors

September 28, 2006

Approval of Interconnection Agreements

TeleBarbados & C&W

June 9, 2006

Solutrea (B'dos) Inc, (formerly Wiisom) and C&W

September 11, 2006

Blue Communications and C&W

November 08, 2006

Presentations at Lectures, Workshops and Seminars

APPENDIX II

Presentations at Lectures, Workshops and Seminars

Lectures

February 2007	Third Annual Lecture “Walking the Tightrope” - Balancing Competing interests in Pursuit of Good Public Policy” Hilton Barbados
Presenter:	Attorney-at-Law, Author & Legal Consultant Mr. Ashley Brown

Workshops

February 2007	“Regulatory Decision Making - What are Stakeholders Entitled to Expect?” Savannah Hotel, Barbados
Panellists	Mr. Ashley Brown Mr. Barry Carrington Mr. Chelston Bourne Mrs. Glenda Medford Mr. David Ellis Mr. Jai Jebodhsingh
April 2006	“Management of Utility Complaints in Barbados” Organisation of Caribbean Utility Regulators Trinidad & Tobago
Presenter	Mrs. Sandra Sealy, Director of Utility Regulation
July 2006	“Review and Appeal Process in Utility Regulation” Organisation of Caribbean Utility Regulators Guyana
Presenter	Mr. Elson Gaskin, General Legal Counsel
October 2006	“The Way Forward – Competition in the CSME” Barbados Chamber of Commerce and Industry Hilton, Barbados



Presentations at Lectures, Workshops and Seminars (continued)

Workshops (Continued)

Presenter Mr. DeCoursey Eversley, Director of Fair Competition

Conferences

April 2006 “Lessons to be learnt from the Experiences of Young Competition Agencies”
5th Annual ICN Conference
South Africa

Presenter Ms. Peggy Griffith, Chief Executive Officer

November 2006 “Use of Decision Analysis Principles to Enhance the Regulation of the Electricity Sector”
4th Annual OOCUR Conference
Grenada

Presenter Mr. David Ince, Electricity Analyst

November 2006 “Challenges to Regulating a Competitive Market – Barbados and the Telecommunications Experience Five Years On”
4th Annual OOCUR Conference
Grenada

Presenter Mrs. Kim Griffith-Tang How, Senior Legal Officer



Commission Panels

APPENDIX III

Utility Regulation

Costs Hearing

Sir Neville Nicholls
Professor Andrew Downes
Mr. Gregory Hazzard

Telecommunications Panel

Sir Neville Nicholls
Professor Andrew Downes
Mr. Gregory Hazzard
Mr. Trevor Welch
Mr. Floyd Phillips

Electricity

Mr. Floyd Phillips
Mr. Andrew Brathwaite
Mrs. Desiree Cherebin
Mr. Michael Thompson
Mr. Delisle Weekes

Natural Gas

Professor Andrew Downes
Mr. Gregory Hazzard
Mr. George Thomas
Mr. Michael Thompson
Mrs. Tammy Bryan

Fair Competition

Sir Neville Nicholls
Mrs. Desiree Cherebin
Professor Andrew Downes
Mr. Andrew Brathwaite
Mr. Trevor Welch

Commission Information

APPENDIX IV

Commission Staff as at March 31, 2007

Chief Executive Officer	- Ms. Peggy Griffith, BA, MPA
General Legal Counsel	- Mr. Elson Gaskin, LLB, Attorney-at-Law
Director of Utility Regulation	- Mrs. Sandra Sealy, BSc, MBA, MSc
Director of Fair Competition	- Mr. DeCoursey Eversley, BSc, MSc
Accountant	- Ms. Tricica Boyce, BSc, ACCA
Chief Economist	- Mr. Barry Headley, BSc, MSc
Electricity Analyst	- Mr. David Ince, BSc, MSc
Utility Analyst (Water Sector)	- Dr. Marsha Atherley-Ikechi, BSc, MSc, PhD
Financial Analyst	- Mrs. Susanna Cooper-Corbin, ACCA, MBA
Human Resources Officer	- Mrs. Arlene Bushell, BSc
Senior Legal Officer	- Mrs. Kim Griffith-Tang How, LLB, Attorney-at-Law
Legal Officer	- Ms. Dava Leslie, LLB, Attorney-at-Law
Consumer Protection Officer	- Ms. Judy Maynard, LLB
Consumer Protection Officer	- Ms. Fiona Scantlebury, BSc, MBA
Systems Administrator	- Mr. Richard Farley
Documentalist	- Miss Heather Waithe
Economist	- Ms. Deirdre Craigwell, BSc
Research Officer	- Ms. Sherri Worrell, BSc
Executive Secretary	- Mrs. Denese Alleyne
Office Manager	- Mrs. Myrna Forde, CPS
Assistant Accountant	- Ms. Sharon Grimes
Research/Administrative Assistant	- Ms. Sabrita Grandison
Administrative Assistant	- Ms. Shareka Gibbs
Senior Clerk	- Mrs. Cherylann Jemmott, BA
Help Bureau Officer	- Ms. Julia Lowe
Help Bureau Officer	- Ms. Julia Haynes
Steno-Typist (Ag.)	- Ms. Fernelle Babb
Receptionist/Typist	- Mrs. Wanda Crichlow-Trotman
Office Attendant	- Mr. Ricardo Rawlins
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: Manor Lodge
Lodge Hill
St. Michael
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