

2012

Fair Trading Commission

Annual Report



2012 ANNUAL REPORT

FAIR TRADING COMMISSION





Letter of Transmittal

Fair Trading Commission
Good Hope
Green Hill
St. Michael

July 6, 2012

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, 2012 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. Haynesley Benn
Minister of Commerce and Trade
Reef Road
Fontabelle
St. Michael



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Message from the Chairman

This year has been another busy year for the Commission. In addition to four regular quarterly administrative meetings of the Commission, thirteen regulatory panel meetings were held to determine matters relating to utility regulation and to assess competition and consumer protection issues.

On March 29, this year the Commission issued the Price Cap Plan 2012 decision to establish a new plan for the next price cap period which will run from April 01, 2012 to March 31, 2015. The Price Cap Plan 2012 (PCP2012) governs the adjustment of rates of the regulated telecommunications services of Cable & Wireless (Barbados) Limited (C&W). The decision placed a moratorium on price increases for all regulated services in the first year of the PCP2012.

The Commission also dealt with a number of issues in the electricity sector and has engaged the services of consultants to review and assess the method of application of the fuel clause adjustment administered by the Barbados Light & Power Company Limited (BL&P).

The Commission has been monitoring the BL&P's Renewable Energy Rider, Interruptible Service Rider and the Time-of-Use Tariff pilot programmes which were introduced in June 2010. To date, the level of participation in the programmes has been less than expected. The pilot period will end in June and shortly thereafter the Commission will receive a comprehensive report on the programme. This will form the basis for any recommendations on the way forward.

The Commission conducted investigations relating to resale price maintenance, interlocking directorships and a local administrative charge implemented by the shipping agents of Barbados. In the area of resale price maintenance the Commission determined that it must be clear with the issuance of recommended retail prices that the retailer is free to deviate from the prices without reprisal.

The Commission found several instances of interlocking directorships where one individual served on the boards of several companies. In most of these cases it was observed that the companies were not competing companies therefore the director's presence could not restrict competition among competing firms.

The Commission conducted a review of Standard Form Contracts in use in the banking industry and is continuing dialogue with the banks to ensure that all unfair contract terms are removed from these contracts.

The Commission also continued work on consumer protection issues and provided guidance to consumers through educational programmes while work with businesses focused on encouraging compliance and good practices.

I wish to express my appreciation and thanks to my fellow Commissioners and staff of the Commission for their hard work and dedication to duty during this year.



Neville V. Nicholls
Chairman

Members of the Commission 2011 - 2012



FROM LEFT: Mr. Errol Humphrey, Mr. Trevor Welch, Mr. Alfred Knight, Mr. Andrew Willoughby, Mr. Andrew Brathwaite, Chairman Sir Neville Nicholls, Mr. Gregory Hazzard, Mr. Gregory Hinkson, Deputy Chairman Professor Andrew Downes and Ms. Monique Taitt. Inset is Mr. Kendrid Sargeant.

The eleven (11) Commissioners of the Fair Trading Commission are appointed by the Minister of Commerce and Trade. 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, 2011 - March, 2012 the Commission held four (4) 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

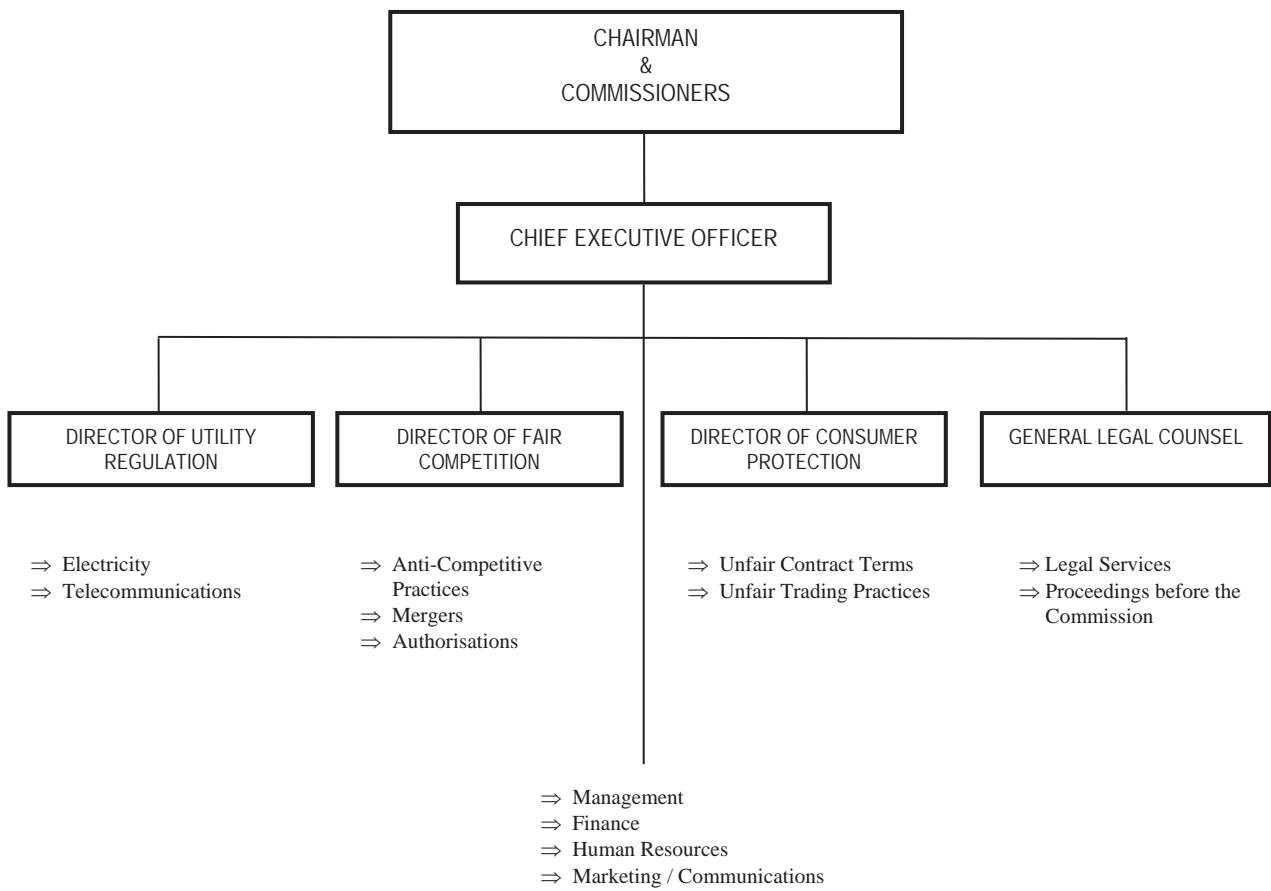
The Commission’s goals are

- 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 responsibilities of the Utility Regulation Division are defined in the Utilities Regulation and the Telecommunications Acts and include establishing the principles for setting rates, determining the applicable standards of service and undertaking periodic review of rates.

The Commission regulates the Barbados Light & Power Company Limited (BL&P) and the telecommunications services provided by Cable & Wireless (Barbados) Ltd. (C&W) which the Minister responsible for telecommunications services designates as services to be regulated. These include the domestic and international voice telecommunications services and interconnection services. In pursuing its mandate the Commission seeks to ensure that the regulated companies provide high quality, efficient and reliable service at reasonable prices.

Electricity

Pilot Programmes

The public's response to the three BL&P Pilot Programmes - Renewable Energy Rider (RER), Interruptible Service Rider (ISR) and Time-of-Use (TOU) Tariff which were implemented in June 2010 has been slow. At the end of March 2012, thirteen (13) customers (an increase of four customers over the previous year) had signed up for the Renewable Energy Rider. Overall, 22,457 kWh were sold to the grid.

Participation in the ISR remained at five. Similarly, the number of customers opting for the TOU Tariff did not increase above the nine customers of the previous year. By the end of the reporting period TOU customers had used a total of 14,920,820 kWh off peak and 7,191,180 kWh at peak. The pilot programmes will end in June 2012. Thereafter, the Commission will review the report which the BL&P is required to submit on the programme. This report is expected to include the company's recommendations on the way forward.

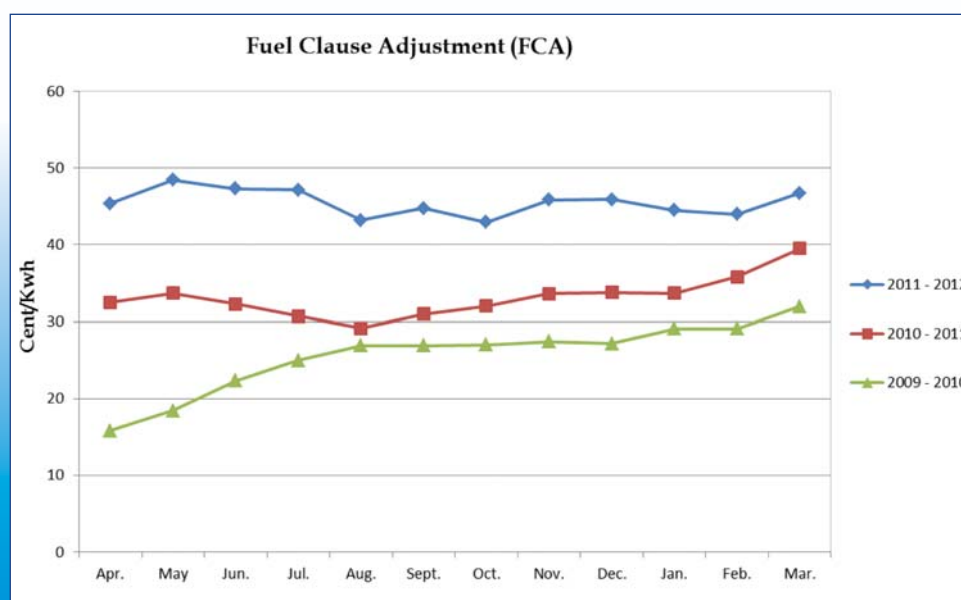
Fuel Clause Adjustment

The single largest input cost in the generation of electricity is fuel costs. In order to recover these costs the BL&P employs a mechanism referred to as a fuel clause adjustment (FCA) which is a pass through fuel charge.

During the review period the FCA peaked at 48.4401¢/kWh in May 2011 and dropped to 42.9439¢/kWh in October 2011. The FCA averaged 45.4977¢/kWh for the period April 2011 to March, 2012 which translates to an average 27.2% increase over the previous period.

Utility Regulation (continued)

Figure 1.1 – Fuel Clause Adjustment



The Commission commenced preparations to audit the BL&P's application of the FCA. This will include examining alternative mechanisms for the FCA, reviewing the method of application of the FCA and assessing the efficient use of fuel and generating plant.

Telecommunications

Utility regulation activity in the telecommunications sector focused on the review of the Price Cap Plan 2008 and the creation of Guidelines to assist C&W in the development of specifications to be used to build a Long Run Incremental Cost (LRIC) model. This model will be used to derive interconnection costs.

Price Cap Plan

In compliance with the Price Cap Plan 2008 (PCP2008) Decision the following rate changes were implemented:-

- Rate decreases in Business Domestic Leased Circuits, Residential Call Waiting, Caller ID and Smart Choice services; and
- Increase of 4.5% in Residential Access prices.

In 2011, the Commission undertook a review of the PCP2008 including an analysis of C&W's financial and operational data and issued a consultation paper to obtain the public's views on the operation of the plan, their experiences and recommendations. After considering all of the information, the Commission issued the Price Cap Plan 2012 (PCP2012) Decision on March 29, 2012. The new PCP2012 will govern the adjustment of rates of the regulated telecommunications services of C&W for the period April 1, 2012 to March 31, 2015. The Decision placed a freeze

Utility Regulation (continued)

on price increases for all regulated prices in the first year of the price control. This means that C&W cannot increase prices on any regulated service during the first year of the PCP2012 (April 2012 to March 2013). In terms of specifics, the PCP2012 is based on two service baskets, one for “competitive” services and the second basket for “non-competitive” services.

Basket 1 – “Competitive” Services

This basket includes all regulated services for which the level of competition is sufficient to ensure that prices are reflective of a competitive market outcome. These services - international telephone services and international private leased circuits (IPLCs) - will not be subject to an overall price cap. All competitive services will remain subject to advance notification requirements relating to price increases or decreases as set out in the Compliance Rules and Procedures for the PCP2012.

Basket 2 – “Non-competitive” Services

This basket includes all remaining regulated services, namely, all regulated domestic voice access and ancillary services including residential fixed line rental, business fixed line rental, installation, voicemail, other value added services and domestic leased circuits.

For the years 2013-2014 and 2014-2015, an “RPI-X” pricing control will be applied to these “non-competitive” services, with the X-factor set at 5.25%. The Barbados Retail Price Index will be applied as the RPI.

Sub-cap on Residential Access Services

The Commission determined that, in addition to the general RPI-X constraint for Basket 2, there would be a specific constraint (sub-cap) applied to residential access services, including fixed line rental. Placing a sub-cap on residential access services will guarantee that these services cannot be increased more than the capped amount in any period. Thus, following the freeze in the first year, the rate at which C&W will be able to raise the prices of these services will be restricted to the level of inflation or 5% a year if the annual inflation exceeds this level.

Long Run Incremental Cost

The provision of interconnection services between telecommunications operators at fair rates and on efficient terms is important and widely regarded as being an element crucial to the creation of a competitive telecommunications market in Barbados.

As a consequence the Commission, in its Consolidated Reference Interconnection Offer (RIO) decision dated February 22, 2010, determined that C&W should undertake a Long Run Incremental Cost (LRIC) study to determine interconnection costs and tariffs. The Commission completed a round of public consultation and issued the LRIC Guidelines Decision on December 13, 2011. The Commission decided that the LRIC model implementation process would consist of three main phases. These are, the publication of LRIC guidelines, model building and the review of C&W’s model and outputs. The estimates of costs generated by the final model will be used to determine the allowable interconnection rates for the services contained in C&W’s RIO.

Motion to Review – Digicel Barbados Limited

On January 13, 2012, Digicel Barbados Ltd. filed a notice of Motion to Review and a Request for a Stay of the LRIC Guidelines Decision. The Commission denied the Request for a Stay. The Motion for Review is being considered.

Utility Regulation (continued)

Standards of Service

BL&P

The BL&P's 2011/2012 compliance with the guaranteed standards averaged above 95% in all of the eight standards except GES4 which deals with the provision of a simple service connection. Three service categories, namely, Restore Supply After a Fault on Customer's Service (GES1); Investigation of Voltage Complaint (GES3a) and Provide Cost Estimate for Complex Connection requiring a site visit (GES5) all recorded compliance levels which improved over the previous year. Only Restoration of Supply After Fault on Distribution System – Multiple Customers Affected (GES2) recorded perfect compliance. The compliance level of GES4 declined relative to the preceding two years. All others maintained the same level of compliance as the previous year. Non-compliance with Guaranteed Standards requires the company to make compensatory payments.

With regard to the Overall Standards of Service which the Commission uses to assess the reliability of the Company's operation as a whole, the Company exceeded the targets for Response to High/Low Voltage Complaints (OES2) and Prior Notice of Outages (OES3). The 100% targets for Frequency of Meter Reading (OES1) and Answering of Billing/Trouble Calls (OES5) were not met. Analysis of the system reliability indices for 2011/2012 showed that customers experienced service interruptions more frequently and the outages were of a longer duration.

BL&P Standards of Service Inspection

The Company's data recording systems were assessed and random verification checks made to compare their 2010 raw data against the information submitted to the Commission. No discrepancies were uncovered. It was observed that the Company is able to respond and correct more than 90% of loss of supply-related complaints within 6 - 8 hrs.

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

GUARANTEED STANDARD	TARGET	COMPENSATORY PAYMENT	NUMBER OF TIMES TARGET NOT MET	AVERAGE % COMPLIANCE APRIL 2011 – MARCH 2012
GES 1 Restore supply after fault on customer's service (single customer affected)	Within 12 hours	\$45.00 (Domestic), \$90.00 (General Service) or \$215.00 (SVP/LP*) plus the equivalent or part thereof for each additional 12 hours without service	1	99.5
GES 4 Provide a simple service connection (connection point within 30m)	Within 12 working days	Refund of installation fee	124	89.4

*SVP – Secondary Voltage Power; LP – Large Power

Utility Regulation (continued)

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

STANDARD	TARGET	AVERAGE % COMPLIANCE APRIL 2011 - MARCH 2012
OES1 Frequency of meter reading	100% of domestic and general service customers' meters to be read every two months	95.7
	100% of SVP and LP customers' meters to be read monthly	96.9
OES4 Prior notice of outages	95% of customers to be notified of planned outages 48 hours before	99.5

C&W

Cable & Wireless achieved an acceptable level of performance averaging above 80% in respect of the Guaranteed Standards of Service categories for the year under review. Two service categories, namely, Repeated Loss of Service (GTS3) and Response to Customer Complaints (GTS4) recorded performance similar to 2010/2011 while there was improved performance for Wrongful Disconnection (GTS7). There was also some improvement in Fault Repair (GTS 2) for all customers in the dry season (Dec. 1 – May 31) and for business customers in the wet season (June 1 – Nov. 30). However, performance in this service category for residential customers in the wet season was recorded at 59.32% for the current year – decreasing from 76.12% in the previous year.

A significant decrease in performance was also recorded in the residential Customer Appointments (GTS5) with the target being met 67.27% compared to 81.46% for the previous year. This standard relates to Cable & Wireless' technicians keeping appointments to correct external faults up to the network interface device, where access to the customer's premises is necessary but restricted.

With respect to the Overall Standards of Service, C&W significantly exceeded most of the minimum levels specified with performance exceeding 90% for most standards. Fault Repair (OTS1) averaged 71.17%, an improvement over the previous year's 58.84%.

C&W Standards of Service Inspection

The Company's data recording systems which generate the standards of service reports were assessed. This system interfaces with their fault management system. Particular attention was directed to the fault repair standard of service with the tracking of faults through the system. The Commission was generally satisfied with the level of control.

Utility Regulation (continued)

Table 1.3 – C&W Guaranteed Standards of Service (Selected)

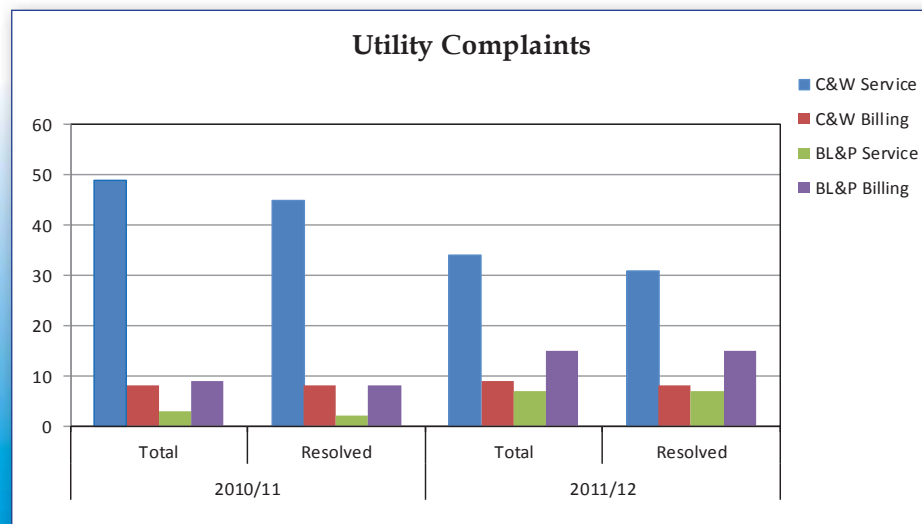
GUARANTEED STANDARD	TARGET	COMPENSATORY PAYMENT	NUMBER OF TIMES TARGET NOT MET	AVERAGE% COMPLIANCE APRIL 2011 - MARCH 2012
GTS1A Approval of application for service	Residential Customers – no more than 7 working days	Refund of the applicable installation fee to customers	324	93.14
GTS1B Installation of Service, after approval	Residential Customers – no more than 7 working days	Refund of the first month's bill	128	82.32
GTS7 Wrongful Disconnection	Reconnection within 1 working hour of notification	Automatic minimum payment of BDS\$15 to residential customers	3	99.99

Table 1.4 – C&W Overall Standards of Service (Selected)

OVERALL STANDARD	TARGET	AVERAGE % COMPLIANCE APRIL 2011 – MARCH 2012
OTS2 Repeated Loss of Service	No more than 5% of faults should reoccur within 30 days of repair of first failure	98.96
OTS4 Trunk Blocking	At least 95% of calls should be completed during peak traffic	99.74

Utility Regulation (continued)

Figure 1.2 – Utility Service Complaints



There were forty-three (43) C&W and twenty-two (22) BL&P consumer complaints for the period April 01, 2011 to March 31, 2012 compared to fifty-seven (57) C&W and twelve (12) BL&P consumer complaints in the previous year. The high level of complaints for C&W in 2010 was due to the significant weather system experienced in November 2010.

Regional Cooperation

Organisation of Caribbean Utility Regulators (OOCUR)

Staff continued to interface with members of the Organisation of Caribbean Utility Regulators (OOCUR). OOCUR is mandated to assist in the improvement of utility regulation in the Caribbean region by facilitating an understanding of regulatory issues and sharing information and experiences.

The Commission's Chief Executive Officer is the Deputy Chairman of OOCUR which was 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 (OECTS), 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 twelve (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;*

As a consequence, a significant number of investigations of anti-competitive conduct were commenced. Several programmes including educating and informing businesses and consumers with regard to their rights and responsibilities were implemented. The Commission also co-operated with relevant regional and international competition authorities and organisations.

Investigating and Adjudicating Anti-Competitive Conduct

During the reporting period the Commission conducted a number of investigations into alleged anti-competitive practices. These investigations dealt with conduct such as exclusive dealing, refusal to supply and anti-competitive agreements. They covered a wide range of sectors including, construction, telecommunications, distribution and manufacturing. While most of these investigations were resolved, others are ongoing. Following are summaries of the main investigations undertaken during the year.

Resale Price Maintenance in the Distribution Industry

The Commission completed its investigative report into the practice of Resale Price Maintenance in Barbados in December 2011. It found that distributors possessed a good understanding of the correct application of suggested/recommended prices. There were some cases where recommended prices were not viewed as suggested prices but more as the prescribed price that must be charged. However, most suppliers and manufacturers were aware of the requirements set out in the Act and as communicated by the Commission. They also seemed to be quite aware that where information on prices is communicated to a dealer/retailer, that it must be communicated in a way that creates no obligation on the dealer/retailer.

The Commission directed that staff should undertake further public education on the subject of Resale Price Maintenance. This exercise will be undertaken during the coming year.

Interlocking Directorships

In December 2011, the Commission completed a second investigative study into the incidence of interlocking directorships. The report found that there were several instances of one director serving on the board of multiple companies. In most cases, however, the companies involved were affiliated to the same parent company but were not significant competitors. These companies were therefore not in breach of the Act.

To date the report has identified one instance of a director serving on the board of two competing companies. Additional research is being conducted to understand the purpose of such arrangements and to find any behavioural evidence that would indicate whether the particular interlocking directorships and any others identified have led to a lessening of competition between the relevant companies.

Fair Competition (continued)

Arawak Cement Plant - Discriminatory Pricing

In December 2011, the Commission wrote to Arawak Cement Limited (Arawak) asking the company to respond by the end of January 2012 to the Commission's findings. The Commission found that Arawak charges particular manufacturers a weighbridge charge when they visit Arawak's premises and use the weighbridge, while foregoing the same weighbridge charge on other competing manufacturers when those manufacturers enter the Company's compound to purchase cement. This discriminatory application of the charge was determined in the Commission's preliminary report to be in breach of Section 16 of the Fair Competition Act.

As at the end of March 2012 Arawak had failed to respond to the Commission's report citing a number of internal challenges as preventing it from being able to complete the report within the scheduled time. Staff continued to be in contact with the Company in order to obtain a response.

Exclusionary Conduct in the Destination Photography Industry

The Commission began 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. It was alleged that other local photographers were being closed out of this area of business and in addition, customers were being denied the right to choose the photographer of their preference. Investigations into this matter are ongoing.

Local Administration Charge instituted by Shipping Agents of Barbados

During the year the Commission completed its investigation into the allegation that the local shipping agents in Barbados had entered into an anti-competitive agreement to charge both importers and exporters a fixed Local Administration Charge (LAC). The evidence revealed that sometime in 2004 the Shipping Association of Barbados (SAB) met and the agents agreed among themselves to introduce a local administrative charge. A circular to all agents dated June 8, 2004 stated that "it was unanimously agreed" that members may institute an LAC on import and export transactions.

In February 2011 the Commission forwarded its preliminary findings to the individual shipping agents and the SAB. The Commission notified the parties that their conduct had the potential to breach the Fair Competition Act and invited them to respond to the findings of the report.

While acknowledging that their act constituted the practice of price fixing, the SAB submitted a number of mitigating factors and requested that the Commission be lenient given these factors. On June 30, 2011 the Commission met and reviewed the report and agreed that the conduct of the local shipping agents, in collectively agreeing on and implementing the LAC, was anti-competitive. The Commission therefore required that the LAC be terminated with immediate effect, in the manner in which it was administered. The Commission noted nevertheless that its decision did not prevent an individual shipping agency from independently implementing any charge it deemed necessary. In August 2011 the SAB confirmed that it had convened a special meeting and had rescinded its decision taken in June 2004 regarding the LAC. In September the Commission received communication from the shipping agents confirming that they had discontinued the charge as previously administered and had each taken individual decisions.

Acquisition of the Assets of SEA by GS&T

On May 23, 2011, the Commission received documentation from Goddards Shipping and Tours (GS&T) seeking application for an authorisation. The contents of the letter however signalled GS&T's

Fair Competition (continued)

proposed acquisition of “the rights to the trade name in some form as well as agency agreements currently held by Sea Freight Agencies” (SEA).

Staff invited GS&T to submit a formal application in accordance with the requirements set out in the Fair Competition Merger Rules, 2009. On June 30, 2012 the Commission determined that it had no objection to the proposed transaction. The Commission noted however that in acquiring the agency agreements currently held by SEA, GS&T was likely to create a position of dominance in the market for the provision of shipping agency services. Goddards Shipping and Tours, therefore, has the added responsibility not to abuse this dominant position.

Duty-Free Shopping Day

On December 8, 2011 the Commission received complaints from two Bridgetown stores as well as the management of Sheraton Centre objecting to the proposed Duty-Free Shopping Day in Bridgetown. The complaints alleged that the promotion was grossly unfair to merchants in the island who were not amongst the selected participants.

The Commission considered this matter at its meeting of December 8, 2011 and determined that under the Fair Competition Act the Commission is granted authority to investigate conduct which is undertaken by enterprises engaged in business for gain or reward.

In this case the action of concern was policy. Therefore the matter did not constitute alleged anti-competitive conduct by an enterprise and as such was not subject to investigation by the Commission under the Fair Competition Act.

The Commission therefore in keeping with its powers in such circumstances, sought to advise the relevant public authority through its Ministry that the proposed policy had the potential of distorting competition within the retail distribution sector.

The Commission viewed the policy as inconsistent with the promotion of competition which is the primary objective of the Fair Competition Act. The Commission wrote through its Ministry indicating its views and also communicated its findings to the complainants.

Network Wide Promotions

On January 30, 2012 BICO asked the Commission to provide a ruling on “Network Wide Promotions” or “specials” wherein BICO and other voluntary participating outlets (retailers and mobilers) agree to offer a “special” or to fix their price for certain named products produced by BICO, for a “short” period of approximately two weeks.

The Commission agreed that the “specials” were unlikely to lessen competition substantially. It was noted that the “specials” were agreements between the manufacturer and certain distribution outlets (rather than only between competitors), and was introducing a lower rather than higher price, for a very short period of approximately two weeks. This finding was communicated to the company.

Suggested/Recommended Retail Price

Barbados Dairy Industries Limited (BDIL) wrote to the Commission seeking permission to attach to its product a manufacturer’s suggested/recommended retail price.

The Commission met on February 16, 2012 and agreed that, the act of attaching retail prices to the packages sold on a wholesale basis to distributors/retailers had the potential to lessen

Fair Competition (continued)

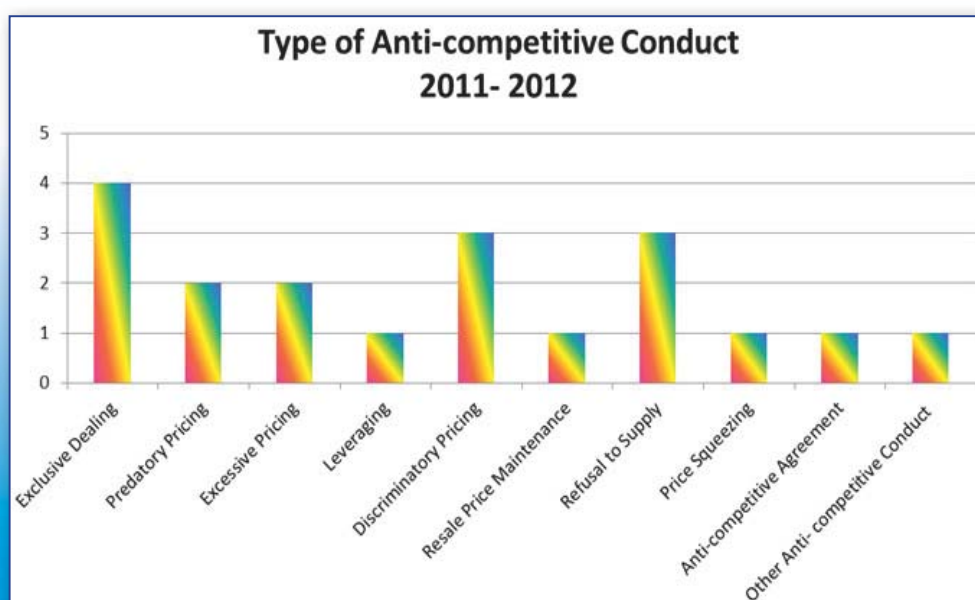
competition among independent retailers who would likely be forced to sell at the attached price. The Commission agreed that BDIL should refrain from the commencement of this practice and this was communicated to BDIL.

Queries, questionnaires and other requests for information

Staff continued to respond to telephone, e-mail and walk-in inquiries for information on competition law. During the year the following complaints were received:

Educating and Informing Businesses and Consumers

Figure 2.1 – Investigations of Allegations of Anti-Competitive Conduct April 2011 - March 2012



An integral part of the Commission's responsibility is to foster a culture of competition in Barbados by making available to persons engaged in business and to consumers, general information on their rights and obligations and on matters which might affect their interests. The objective of this exercise is to proactively reduce the level of anticompetitive conduct, by making persons aware of the negative consequences of such practices while appreciating the benefits of keen competition.

- **Business Outreach Programme**

During the year staff wrote a number of newspaper articles on competition law and policy and on other Commission matters for both local newspapers. In addition staff participated in several moderated panels and made a number of presentations to groups including two presentations to the Barbados Youth Business Trust on "Understanding Fair Competition in Barbados".

Fair Competition (*continued*)

- **Annual Training Programme for Business Persons**

On March 21 and 22, 2012 the Commission, as part of its on-going advocacy programme, hosted its two-day annual training workshop entitled, "Competition Law & Policy". This year, Mr. Pete Levitas, Deputy Chief of the Bureau of Competition at the Federal Trade Commission in the United States of America was the main presenter. He along with Commission staff presented on the core areas of Competition Law ranging from abuse of dominance to anticompetitive agreements and merger control. This year's programme proved to be a great success as evidenced by the high level of interaction and the quality and depth of discussion. Several of the participants indicated how much they benefitted from exposure to the subject.

Cooperation with the Caricom Competition Commission (CCC)

Under the Fair Competition Act the Commission is required to cooperate with the CCC as well as with the authorities of the other member states for the purpose of promoting and maintaining competition throughout the region.

In January 2012, the task force which was set up to oversee the implementation of the CCC was reconvened. On this occasion its mandate was to oversee the implementation of Chapter 8 of the Treaty of Chaguaramas. At a meeting in January the task force considered proposed amendments to the Treaty to address anti-competitive mergers that might occur in regional markets. This discussion examined threshold levels that might trigger the mandatory review of mergers. The Barbados FTC as the only agency with the requisite experience in this area provided substantive written comment for guidance at the meeting. The meeting was unable to reach a common set of provisions but agreed that each country would provide a position on the terms that would best satisfy its own local circumstances.

Cooperation with International Agencies and Competition Authorities

To ensure that the Commission remains aware of new developments, emerging ideas and best practices relating to competition issues, the Commission has sought to remain firmly connected to the work being undertaken by the various international organisations and networks that promote competition law and policy.

ICN Steering Group

The Commission became a member of the Steering Group of the International Competition Network (ICN) in May 2011. The ICN comprises approximately 120 competition authorities from 110 countries and is given its direction by the Steering Group.

In addition to the Commission other members are the United Kingdom, Canada, the Russian Federation, Australia, Italy, the Netherlands, Brazil, the European Commission, Turkey, South Korea, the United States Federal Trade Commission, France, Germany, México, South Africa, Japan, and the United States Department of Justice. This announcement was made officially during the plenary session at the 2011 ICN Conference in The Hague. The ICN Steering Group members serve two-year terms initially and may elect to step down after this. All of the current members have elected to remain.

The Steering Group guides the work of the ICN and identifies subjects of potential interest to ICN members; establishes Working Groups which undertake projects that are approved at the Annual

Fair Competition *(continued)*

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.

Staff participated during the year in several ICN Steering Group meetings which were conducted by teleconference. The substantive issues addressed by the Steering Group during the year included international cooperation on enforcement, improving investigative process as well as improving relationships with judges.

Consumer Protection

The Consumer Protection Act, CAP:326D is the legislation under which the Commission is authorised to protect and safeguard the rights of consumers in the marketplace. However, it is also important for consumers to be aware of their rights and responsibilities. To this end, the Commission undertook a number of initiatives during the period.

These included:

- Providing guidance to businesses and consumers through educational programmes;
- Working with businesses to ensure compliance with the Act;
- Reviewing Standard Form Contracts for unfair terms. This minimises the likelihood of suppliers breaching the Act and consumers having to seek redress;
- Investigating alleged unfair trade practices with respect to goods and services;
- Conducting studies on issues that may have a negative impact on consumers' welfare, and
- Providing pertinent information in relation to goods and services, so that consumers can make good decisions and competently function in the market place and be empowered to resolve issues.

Contract Terms

A total of fifteen (15) contracts were reviewed in such areas as finance, tenancy, electronic store agreements, entertainment and retail. These contracts contained one thousand three hundred and fifty-seven (1,357) terms. Fifty-eight (58) terms were found to be in breach of the Act and the Commission required the businesses to either delete or amend the unfair terms.

The examination of Standard Form Contracts (SFCs) is a very important activity for Commission staff since it reduces the amount of unfair contract terms that consumers will encounter in the marketplace. Standard Form Contracts are contracts which are drawn up in advance by suppliers and are not individually negotiated with consumers. During the reporting period, the Commission also required the ophthalmology industry to submit its contracts for examination, but found that most contracts were oral.

Educational Outreach Programme

Businesses and Other Organisations

It is our mission to make markets work well for consumers and businesses. Therefore, the Commission intensified its educational programme, so that a greater number of persons benefitted from having a better understanding of the Act. Presentations by the Commission's staff were specifically prepared to meet the needs of each business and to provide opportunities for discussion.

During the reporting period, the Commission visited the thirty-three (33) businesses and made presentations to their staff. A total of eight hundred and three (803) persons participated in discussions with respect to their rights under the Act.

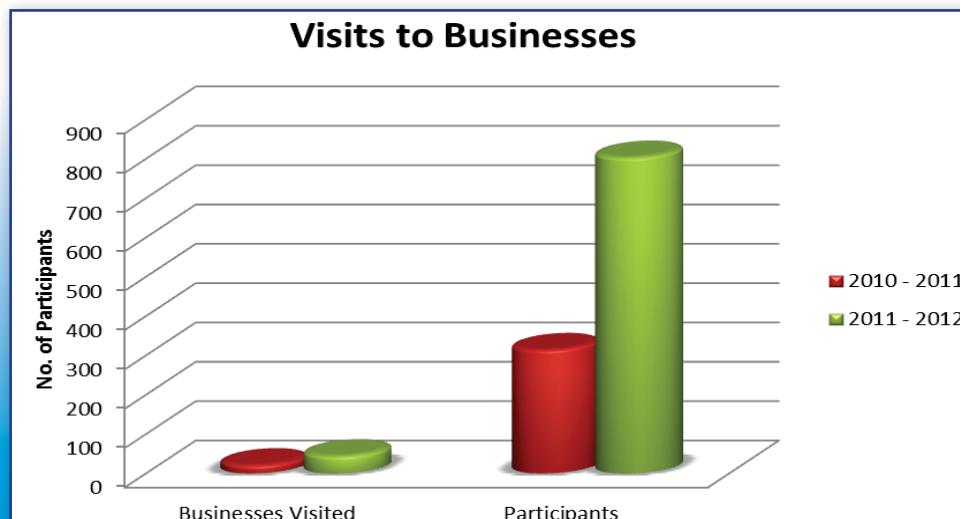
Businesses visited included the Barbados National Bank, The Royal Barbados Police Force, Scotiabank, Barbados Bottling Co. Ltd., National Petroleum Corporation, Ellco Rentals, Insurance Corporation of Barbados Limited, SOJE Lonsdale, Eric Hassell & Son Ltd., Altman Realtors, H&B Hardware, D.E. Computers, Barbados Industries Ltd., Oran Limited, Days Book Store, Barbados Light & Power Company Limited, BICO, Thinking Computers, Meridian Caribbean, Peronne Manufacturing,

Consumer Protection (continued)

TeleBarbados, Invest Barbados, Roberts Manufacturing, Barbados Investment and Development Corporation, Foursquare Distillery & Heritage Park, Popular Discounts, DaCosta Mannings, Kingsley Store, R.L. Seale, and Seawell Air Services. Sessions of this nature have proven to be invaluable since businesses also take the opportunity to ask for guidance in relation to initiatives that they intend to pursue.

The Commission also continued to discuss with several businesses the necessity of having a "Compliance Programme" in place. Compliance programmes simply consist of measures to ensure that information about goods and services is accurate, before the information reaches the public domain. Businesses which have implemented such programmes can rely on the defence of Mistake under Section 26 of the Act to show that they have exercised due care and diligence to prevent a breach from occurring.

Figure 3.1 - Visits to Businesses

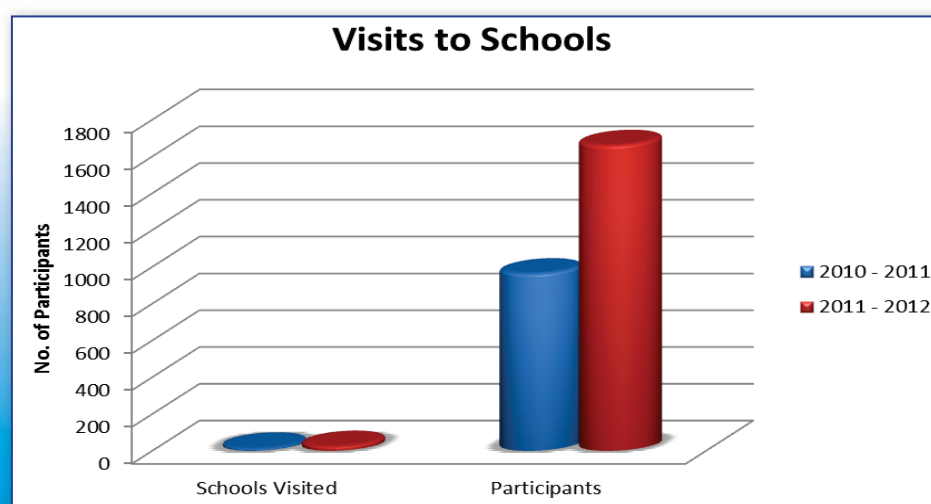


Consumer Protection (continued)

Schools

Officers of the Commission continued their programme of visits to schools at the primary and secondary level which serve to heighten the children's awareness of the Act and its impact on them as consumers. Twenty-four (24) primary and secondary schools were visited and a total of one thousand six hundred and sixty-one (1,661) pupils and their teachers engaged in discussions regarding their rights and responsibilities as consumers.

Figure 3.2 - Visits to Schools



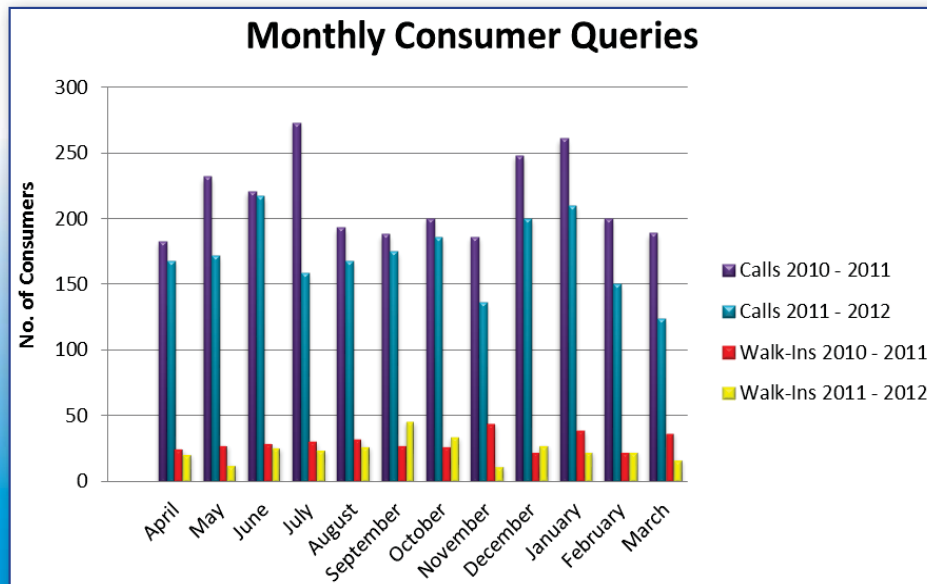
Relationship with Consumers

Queries

During the reporting period, two thousand three hundred and eighty-four (2,384) consumers either telephoned, visited or wrote the Commission seeking advice on consumer matters. These included issues relating to unfair trade practices by businesses, such as dual pricing, misleading representation as to price, and misleading representation as to their right or the remedy available. Of this number two thousand and sixty-five (2,065) were telephone queries, while two hundred and ninety-four (294) were from consumers who visited the Commission. Eight hundred and ninety-six (896) consumers were directed to the Office of Public Counsel. Staff also responded to twenty-five (25) written queries.

Consumer Protection (continued)

Figure 3.3 – Consumer Queries



Complaints

The Fair Trading Commission Act, CAP.326B (FTCA), at Sections 23 to 25, has made it possible for “every person who is aggrieved by an act done by a service provider or business enterprise which is contrary to any law which the Commission has jurisdiction to administer, may make a complaint...”

However, the complainant must satisfy two (2) requirements under the FTCA, before the Commission can investigate the complaint. The complainant must establish that he/she submitted a complaint to the business and has not obtained reasonable redress. The Commission must also ensure that the complaint is:

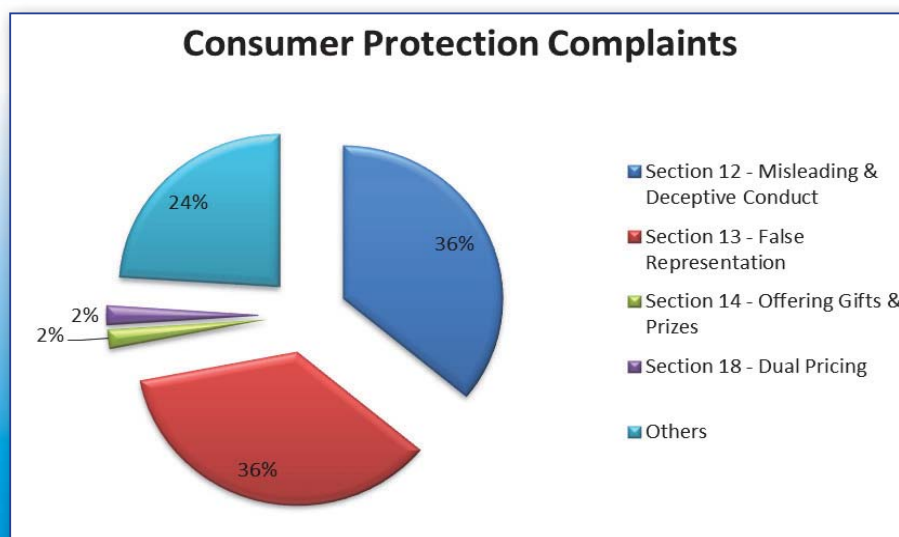
- i) Not trivial, frivolous or vexatious
- ii) Not made in bad faith, and that
- iii) The complainant has Locus Standi i.e. the right to bring an action or to be heard in a given forum.

The empowerment of consumers through expansion of the educational programme, which provides consumers with knowledge of their rights and responsibilities, has produced a more confident consumer. This empowerment has been reflected in a decrease in the number of complaints being lodged with the Commission.

In this period, twenty-six (26) complaints were submitted claiming Unfair Trade Practices. Twenty-two (22) complaints or 85% were resolved. The four (4) remaining complaints are currently being investigated. In addition six (6) complaints brought forward from the 2010 reporting period were resolved.

Consumer Protection (continued)

Figure 3.4 – Consumer Complaints – Sections of the Act Breached



Scam Awareness

Towards the end of the reporting period, the Commission noticed that consumers were receiving e-mails, text messages, regular mail and telephone calls informing them that they won prizes or inherited money. Consumers were also asked to give details about their bank accounts or credit cards. The purpose of these messages was to cheat consumers out of their money. Although the Act does not address such issues, the Commission felt that it had a moral duty to protect consumers. Therefore, the Commission used the media, to provide consumers with practical advice, on how to avoid being “scammed”.

Relationship with Businesses

Unfair Trade Practices

To determine the level of compliance with the Act, the Commission conducted unannounced visits to ninety-nine (99) stores. Twenty-one (21) stores were found to be in breach of the law by having the “No Exchange No Refund” statement displayed in their stores and on their invoices or receipts. The stores were informed that displaying of such statements was contrary to the provisions of the Act and that they must desist from this unfair trade practice which is misleading to consumers.

Monitoring the Print Media

This ongoing exercise pointed to five (5) misleading advertisements in the reporting period. The following is an example of the type of misleading advertisements that the Commission dealt with:

- A business advertised in the daily newspapers an item at a reduced price. A consumer interested in purchasing the item alleged that when the doors of the business were opened, personnel of the store stated that the item was sold out. The business was contacted

Consumer Protection (continued)

regarding their advertisement and the availability of the item. The business agreed to offer the consumer a similar item for the same price. The matter was amicably settled.

Research

Banking Industry

The Commission, under Section 4 (6) of the Fair Trading Commission Act, CAP. 326B, continued its review of the Standard Form Contracts (SFCs) utilised in the banking industry. The benchmark for the analysis of Unfair Contract Terms is the Consumer Protection Act, CAP.326D. The aim of the inquiry is to determine if the SFCs utilised in the banking industry contained unfair contract terms and if they did, seek compliance by those banks contravening the Act, through the modification of the said term(s).

Several contracts of the six (6) commercial banks were reviewed. For the sake of consistency, the Commission examined those services which were common to all banks. To date, one thousand two hundred and ninety-one (1,291) contract terms were reviewed for fairness under the Act. The review is continuing.

Voluntary Codes of Practice

In this reporting period, talks were restarted with the Barbados Chamber of Commerce and Industry and businesses within the retail industry (mainly those selling white goods, appliances and furniture) regarding the implementation of a Voluntary Code of Practice (VCOP).

On October 20, 2011, the Commission met with businesses within this sector and discussed the benefits of having effective self-regulation. Consumers also play an integral role in the development of such a code and therefore, in December 2011, the Commission met with consumer representatives to provide guidance to them with respect to participating in the development of the code.

These representatives included, the Barbados Association of Retired Persons, the Men's Educational Support Association, the National Organisation of Women and the Barbados Consumer Research Organisation Inc. together with businesses mainly of white goods, appliances and furniture. This project is ongoing.

Relationship with International Bodies

The Commission is a member of the International Consumer Protection and Enforcement Network (ICPEN) which 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. ICPEN encourages international cooperation among law enforcement agencies. The Commission continued to participate actively in the network.

On September 8, 2011, the Commission took part in ICPEN's "Online Sweep Day" which targeted fraudulent, deceptive and unfair conduct. The aim of the Sweep was to devote a day to intensive searching of the internet to identify potentially deceptive, unfair or fraudulent practices. Sixty-four (64) websites were reviewed. Eight (8) websites appeared to be in breach of consumer law but were outside the jurisdiction of the Consumer Protection Act. The relevant law enforcement agencies were notified. Sweeps of this nature play a significant role by:

- improving market conduct because of an online enforcement presence, and
- assisting in the promotion of fair trading practices by businesses.

8th Annual Lecture

The Commission hosted its 8th Annual Lecture on Friday, March 9, 2012 at the Accra Beach Hotel and Spa. The lecture was delivered by The Honourable Mr. Justice Marston Gibson, Chief Justice of Barbados, on the topic *“Dialogue with the Courts – How Can Organisations Best Articulate their Cases Before the Courts?”*

Chief Justice Gibson spoke about the processes involved in presenting cases before the courts, which stimulated much discussion on the timelines involved after the cases are presented. Opening remarks were made by Senator The Honourable Haynesley Benn, Minister of Commerce and Trade.

Bridgetown Outreach Event

An Outreach event was organised at DaCostas Mall Bridgetown on Friday, August 19, 2011. The main objective was to give members of the public the opportunity to discuss with Commission staff, issues relating to their electricity bills, their electricity service and any other queries on FTC-related issues. In general there was a good response with increases in fuel cost, energy conservation, interim billing and underestimation of bills the main topics discussed.

Open Day 2011

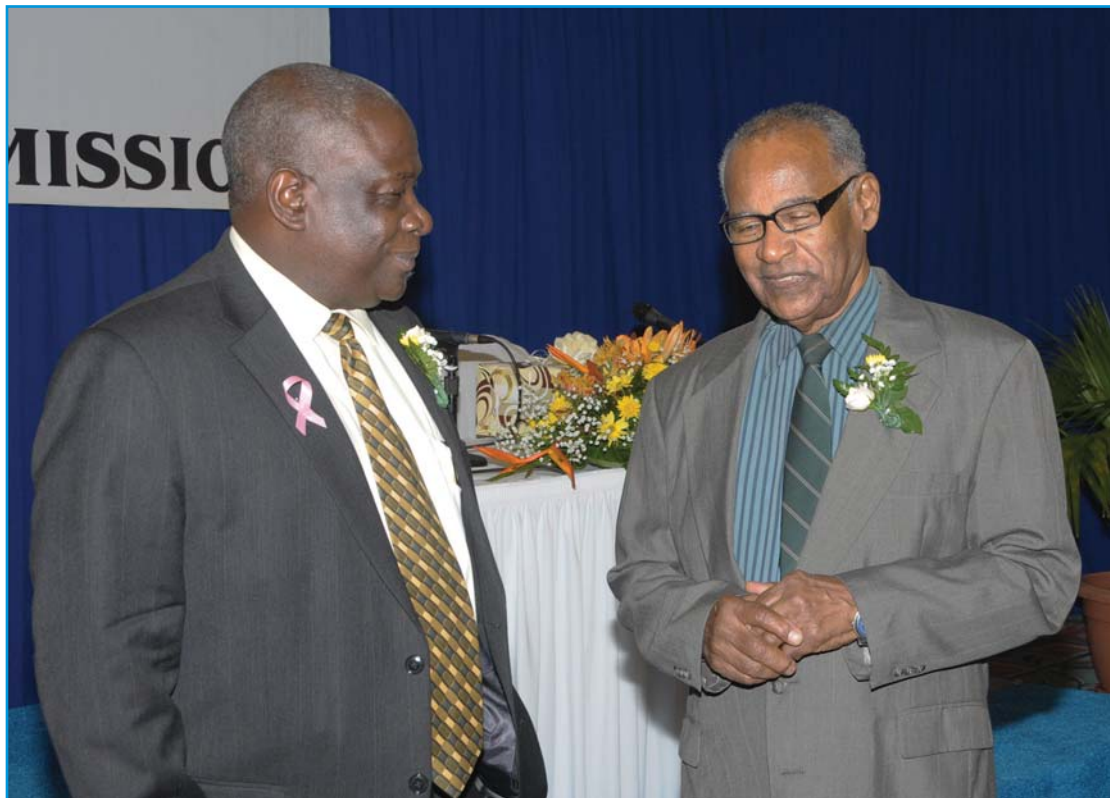
On June 16, 2011, the Commission hosted an Open Day as part of its 10th anniversary celebrations. The event gave the public the opportunity to visit the Commission’s offices and to discuss with members of staff issues relating to consumer protection, utility regulation and fair competition.

Published Articles

As part of its public education efforts 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)



Featured speaker The Honourable Mr. Justice Marston Gibson, Chief Justice of Barbados with Chairman of the Fair Trading Commission Sir Neville Nicholls at the Commission's 8th Annual Lecture



A section of the audience at the Commission's 8th Annual Lecture

Public Education and Awareness (continued)



Open Day 2011 presented an opportunity for everyone to learn more about the role of the Commission



Students from primary and secondary schools attended Open Day 2011

Public Education and Awareness (continued)



Director of Consumer Protection Judy Maynard and Director of Utility Regulation Sandra Sealy assist a consumer during the Commission's Outreach event at DaCostas Mall in Bridgetown



Participants in the Competition Law and Policy Workshop. Inset is Mr. Pete Levitas, Deputy Director, Bureau of Competition at the United States Federal Trade Commission

Public Education and Awareness *(continued)*



(From left) Minister of Commerce and Trade Senator the Honourable Haynesley Benn, OOCUR Chairman Zia Mian, OOCUR Deputy Chairman and CEO of the FTC Peggy Griffith and OOCUR Secretary/Treasurer Mr. Justice Prem Persaud at the 9th Annual OOCUR Conference



A section of the participants at the OOCUR Conference

Organisational Development

Training and Development

During its tenth year of existence, the Commission continued to focus on creating opportunities for growth and development for members of staff. These opportunities provided exposure to new developments and trends in the areas of utility regulation, fair competition and consumer protection. The Commission considers this important as it continues to develop its human resource and build its reputation as a progressive and efficient regulatory entity in Barbados and beyond.

Apart from the alliances which have been built with several regional and international regulatory agencies, the last year presented opportunities for staff members to be involved in activities related to renewable energy. One such opportunity came in the form of participation in a two-week internship programme hosted jointly by the National Association of Regulatory Utility Commissioners (NARUC) and the United States Agency for International Development (USAID). In addition, the Commission was also invited to be part of the National Taskforce on Alternative Energy. Two members of staff also benefitted from attendance at the 2011 Caribbean Renewable Energy Forum (CREF).

Members of staff attended various workshops, seminars and conferences hosted by such entities as the International Consumer Protection and Enforcement Network (ICPEN), the Fordham Competition Law Institute of New York, the International Competition Network (ICN), Stitt Feld Handy of Canada, the Institute of Chartered Accountants of Barbados (ICAB), the Human Resource Management Association of Barbados (HRMAB), the Training Administration Division and the Barbados Association of Office Professionals (BAOP).

Organisation of Caribbean Utility Regulators (OOCUR) Conference

The Organisation of Caribbean Utility Regulators (OOCUR) 9th Annual Conference was hosted by the Commission under the theme "Regulation and Competition: The Impact and Value in the Caribbean". The Conference took place from November 2 – 4, 2011 at the Accra Beach Hotel & Spa and was attended by seventy-two (72) participants.

Staff was responsible for liaising with the Executive Council and the acting Secretary General concerning programme content and speaker involvement. All members of the Utility Regulation Division had the opportunity to present papers in addition to the Director of Fair Competition, the Chief Economist and the General Legal Counsel. Opening remarks were made by Senator the Honourable Haynesley Benn, Minister of Commerce and Trade.

The OOCUR conference brings together participants from throughout the Caribbean and beyond, providing them with the opportunity to share knowledge and information and develop their expertise in utility regulation.

Looking to the Future

The Commission will be expected to embrace additional functions as set out in the Sustainable Energy Framework and Policy document, a major component of which will be the opportunity for Independent Power Producers to sell electricity to the grid.

Besides high fuel cost, the Commission is concerned about public perceptions relating to the Fuel Clause Adjustment (FCA) administered by the BL&P. In the next few months the Commission will be auditing the BL&P's application of the FCA, examining alternative mechanisms and assessing the efficient use of fuel and generating plant.

There have been several statements relating to the regulation of water. However, the Commission awaits definitive action in this regard which requires the publication of the relevant statutory instrument.

The Commission will release its report on bank charges and its study on contracts used by commercial banks operating in Barbados and will organise a workshop to discuss these.

The Commission supports the need for greater consumer advocacy. There is a need for strengthened consumer bodies to work on consumer issues and to lobby on the behalf of consumers in areas which can best be handled by non-governmental organisations.

Public education and public consultation on issues relating to the Commission's work will continue to be an integral part of the work of the Commission. The Commission believes that providing a body of relevant information will make both businesses and consumers more aware of the responsibilities of the Commission and the legislation it administers thereby placing them in a better position to determine which issues should be brought before the Commission.

**Financial Statements
Fair Trading Commission
For the Year Ended March 2012
(Expressed In Barbados Dollars)**

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Statement of Cash Flows	38
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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 2012 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

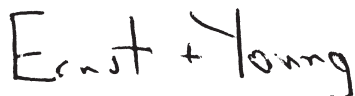
Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether 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 2012 and its operations and its cash flows for the year then ended in accordance with International Financial Reporting Standards.



CHARTERED ACCOUNTANTS

Barbados

4 July 2012

FAIR TRADING COMMISSION


Statement of Financial Position As of 31 March 2012

	Notes	2012 \$	2011 \$
Assets			
Current assets			
Cash	4	467,181	1,219,803
Time deposits	4	107,172	104,565
Accounts receivable	5	1,168,895	1,011,059
Prepayments		96,348	94,303
		<u>1,839,596</u>	<u>2,429,730</u>
Accounts receivable	5	27,500	37,500
Property and equipment	6	567,861	678,769
		<u>2,434,957</u>	<u>3,145,999</u>
Liabilities			
Current liabilities			
Accounts payable and accrued liabilities		94,420	123,222
Deferred income	7	76,116	105,067
		<u>170,536</u>	<u>228,289</u>
Net assets		<u>2,264,421</u>	<u>2,917,710</u>
Represented by:			
Government advances		1,158,760	998,396
Government grants		761,751	1,602,604
Accumulated surplus		343,910	316,710
		<u>2,264,421</u>	<u>2,917,710</u>

The accompanying notes form part of the financial statements.

Approved by the Commission on 4 July 2012 and signed on its behalf by:

 Chairman

 Commissioner

FAIR TRADING COMMISSION

Statement of Comprehensive Income Year ended 31 March 2012

	Notes	2012 \$	2011 \$
Income			
Government grant		3,038,413	3,118,644
Levies		1,158,760	998,396
Other income		27,200	45,650
Gain on disposal of equipment		-	61,300
		<u>4,224,373</u>	<u>4,223,990</u>
Expenses			
Personal emoluments	8(a)	2,164,370	2,209,189
Rental of property		435,925	420,334
Professional services	8(b)	423,075	255,441
Other operating expenses	8(c)	337,779	355,581
Utilities		157,334	159,556
National Insurance contributions	8(a)	129,763	127,442
Pensions and gratuities	8(a)	126,894	133,945
Depreciation	6	123,241	134,076
Maintenance of property		60,695	72,572
Other personal emoluments	8(a)	45,963	45,042
Supplies and materials		44,477	70,447
Travel		39,601	32,312
Group medical		34,687	30,416
Rental of equipment		27,713	26,270
Library books and publications		27,121	14,479
Subscriptions and contributions		16,605	27,962
Bank charges		1,930	1,976
		<u>4,197,173</u>	<u>4,117,040</u>
Surplus		<u>27,200</u>	<u>106,950</u>

The accompanying notes form part of the financial statements.

FAIR TRADING COMMISSION

Statement of Changes in Equity Year ended 31 March 2012

	Government advances \$	Government grants \$	Accumulated surplus \$	Total \$
Balance at 1 April 2010	1,632,987	1,247,811	209,760	3,090,558
Government contributions	998,396	4,509,513	-	5,507,909
Government grants utilized	-	(4,154,720)	-	(4,154,720)
Repayments to Government	(1,632,987)	-	-	(1,632,987)
Surplus for the year	-	-	106,950	106,950
Balance at 31 March 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

The accompanying notes form part of the financial statements.

FAIR TRADING COMMISSION

Statement of Cash Flows
Year ended 31 March 2012

	2012 \$	2011 \$
Cash flows from operating activities		
Personal emoluments	(2,164,544)	(2,209,362)
Rental of property	(437,100)	(417,750)
Other operating expenses	(316,291)	(327,258)
Professional services	(475,096)	(203,386)
Utilities	(157,544)	(163,556)
Pensions and gratuities	(126,894)	(133,945)
National Insurance contributions	(129,764)	(127,539)
Maintenance of property	(59,255)	(70,424)
Supplies and materials	(41,395)	(70,772)
Other personal emoluments	(45,963)	(45,245)
Group medical	(34,687)	(30,416)
Travel	(39,601)	(32,312)
Subscriptions and contributions	(16,971)	(28,321)
Rental of equipment	(27,713)	(26,270)
Library books and publications	(30,490)	(16,074)
Bank charges	(1,930)	(1,976)
Net cash used in operating activities	(4,105,238)	(3,904,606)
Cash flows from investing activities		
Car loans repaid by staff	10,000	17,076
Car loans disbursed to staff	-	(50,000)
Increase in time deposits	2,607	2,544
Interest received	24,593	43,106
Purchases of equipment	(12,333)	(84,286)
Proceeds from sale of equipment	-	50,300
Net cash from (used in) investing activities	24,867	(21,260)
Cash flows from financing activities		
Advances from Government	3,327,749	4,509,513
Levies paid in by utility service providers	998,396	1,632,987
Repayment of Government advances	(998,396)	(1,632,987)
Net cash from financing activities	3,327,749	4,509,513
(Decrease) increase in cash for the year	(752,622)	583,647
Cash – beginning of year	1,219,803	636,156
Cash – end of year	467,181	1,219,803

The accompanying notes form part of the financial statements.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2012

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 and interpretations

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

IFRS 1	–	First-time Adoption of International Financial Reporting Standards (Amendments)
IFRS 2	–	Group Cash-Settled Share-based Payment Arrangements (Amendments)
IAS 24	–	Related Party Disclosures (Revised)
IAS 32	–	Financial Instruments: Presentation - Classification of Rights Issues (Amendment)
IFRIC 13	–	Customer Loyalty Programmes (Determining the Fair Value of Award Credits)
IFRIC 14	–	Prepayments of a Minimum Funding Requirement (Amendment)
IFRIC 19	–	Extinguishing Financial Liabilities with Equity Instruments
Improvements to International Financial Reporting Standards (May 2010)		

Adoption of these revised standards and interpretations did not have an effect on the financial performance and position of the Commission.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2012

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:

IFRS 1	–	Severe Hyperinflation and Removal of Fixed Dates for First-time Adopters (Amendments) (effective 1 July 2011)
IFRS 7	–	Disclosures – Transfers of financial assets (Amendments) (effective 1 July 2011)
IFRS 7	–	Disclosures – Offsetting financial assets and financial liabilities (Amendments) (effective 1 January 2013)
IFRS 9	–	Financial Instruments (effective 1 January 2015)
IFRS 10	–	Consolidated Financial Statements (effective 1 January 2013)
IFRS 11	–	Joint Arrangements (effective 1 January 2013)
IFRS 12	–	Disclosure of Interests in Other Entities (effective 1 January 2013)
IFRS 13	–	Fair Value Measurement (effective 1 January 2013)
IAS 1	–	Presentation of Items of Other Comprehensive Income (effective 1 July 2012)
IAS 12	–	Deferred Tax Recovery of Underlying Assets (Amendments) (effective 1 January 2012)
IAS 19	–	Employee Benefits (Revised) (effective 1 January 2013)
IAS 27	–	Separate Financial Statements (Revised) (effective 1 January 2013)
IAS 28	–	Investments in Associates and Joint Ventures (effective 1 January 2013)
IAS 32	–	Offsetting financial assets and financial liabilities (Amendment) (effective 1 January 2014)

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

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.

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.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2012

2. Significant accounting policies (cont'd)

d] Property and equipment

Property and equipment are stated at cost less accumulated depreciation and provision for impairment in value. The carrying value of property and equipment 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 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.

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.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2012

4. Cash and time deposits

Cash comprises an operating account which bears interest at 1.75% (2011 - 1.5%) per annum.

Time deposits bear interest at the rate of 2.85 % per annum (2011 - 2.85%). The deposits are due to mature on 15 November 2012 and 14 February 2013 respectively.

5. Accounts receivable

Current:

	2012	2011
	\$	\$
Utility service providers	1,158,760	998,396
Car loan receivable	10,000	10,000
Other	135	2,663
	<u>1,168,895</u>	<u>1,011,059</u>

Non-current:

	2012	2011
	\$	\$
Car loan receivable	<u>27,500</u>	<u>37,500</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 2012.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2012

6. Property and equipment

	Leasehold improvements \$	Computer and office equipment \$	Fixtures \$	Vehicles \$	Total \$
Cost					
Balance – 1 April 2010	819,570	292,089	196,875	237,655	1,546,189
Additions	-	22,256	780	72,250	95,286
Disposals	-	(80,901)	(3,800)	(237,655)	(322,356)
Balance – 31 March 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
Accumulated depreciation					
Balance – 1 April 2010	163,914	257,344	187,495	219,877	828,630
Charge for the year	81,957	27,948	5,186	18,985	134,076
Disposals	-	(80,901)	(3,800)	(237,655)	(322,356)
Balance – 31 March 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
Net book value					
31 March 2012	491,742	15,866	3,660	56,593	567,861
31 March 2011	573,699	29,053	4,974	71,043	678,769
1 April 2010	655,656	34,745	9,380	17,778	717,559

7. Deferred income

	2012 \$	2011 \$
Deferred income – beginning of year	105,067	61,900
Add: Grants for assets purchased during the year	12,333	95,286
Less: Amortization of deferred income for the year	(41,284)	(52,119)
Deferred income – end of year	76,116	105,067

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2012

8. Operating expenses

a) Employment costs

	2012	2011
	\$	\$
Personal emoluments	2,164,370	2,209,189
National Insurance contributions	129,763	127,442
Other personal emoluments	45,963	45,042
	<u>2,340,096</u>	<u>2,381,673</u>

Pensions for retired employees and gratuities to contracted employees amounted to \$126,894 (2011 - \$133,945).

b) Professional services

	2012	2011
	\$	\$
Regulatory consultancies	397,795	226,716
Other consultancy services	1,839	5,783
Audit fees	23,441	22,942
	<u>423,075</u>	<u>255,441</u>

c) Other operating expenses

	2012	2011
	\$	\$
Overseas training and conferences	49,659	164,620
Local training	20,764	26,756
Hosted seminars	133,377	53,693
Refreshments and hospitality	34,329	22,900
Commissioners' fees	53,100	50,500
Public relations	25,019	14,903
FTC publications	17,321	16,294
Postage and courier services	4,210	5,915
	<u>337,779</u>	<u>355,581</u>

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2012

9. 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:

	2012	2011
	\$	\$
Property rental:		
Due within 1 year	450,025	435,925
Between 2 and 5 years	502,900	952,925
	<hr/> 952,925	<hr/> 1,388,850

10. Financial risk management objectives and policies

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

The maximum exposure to credit risk at the balance sheet date is the carrying value of each class of receivable. 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.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2012

11. Fair values

The carrying values of financial assets and liabilities are a reasonable estimate of their fair values.

12. 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 2011 to March 2012 (All classes)	April 2010 to March 2011 (All classes)	April 2009 to March 2010 (All classes)
April	45.387	32.4633	15.8099
May	48.4401	33.6871	18.4356
June	47.3105	32.2438	22.3399
July	47.1443	30.7056	24.9719
August	43.1732	29.1349	26.8980
September	44.7178	30.9430	26.9048
October	42.9438	31.9795	27.0151
November	45.8392	33.6020	27.4151
December	45.8823	33.7912	27.1449
January	33.7912	33.6561	29.0777
February	43.9711	35.7891	29.0777
March	46.7002	39.4738	31.9299

Appendix 1.2 – Utility Service Complaints

Complaints	2011/12		2010/11	
	Total	Resolved	Total	Resolved
C&W Service	34	31	49	45
C&W Billing	9	8	8	8
BL&P Service	7	7	3	2
BL&P Billing	15	15	9	8

Statistical Tables (continued)

APPENDIX I

Appendix 1.3 – Allegations and Queries of Anti-Competitive Conduct April 2011 – March 2012

Type of Anti-Competitive Conduct	On-going	Closed	Total
Exclusive Dealing	1	3	4
Predatory Pricing	0	2	2
Excessive Pricing	0	2	2
Leveraging	0	1	1
Discriminatory Pricing	1	2	3
Resale Price Maintenance	0	1	1
Refusal To Supply	1	2	3
Price Squeezing	1	0	1
Anti-competitive Agreement	0	1	1
Other Anti-competitive conduct	0	1	1
Total Domestic Inquiries	4	15	19
General Inquiries/Requests for Information handled			22

Statistical Tables (continued)

APPENDIX I

Appendix 1.4 – Consumer Queries, April 2011 – March 2012

	CALLS		WALK-INS		CONTACTS	
	2011 - 2012	2010 - 2011	2011 - 2012	2010 - 2011	2011 - 2012	2010 - 2011
April	168	183	21	25	189	208
May	172	232	13	28	185	260
June	217	221	26	29	243	250
July	159	273	24	31	183	304
August	168	193	27	33	195	226
September	175	188	46	28	221	216
October	186	200	34	27	220	227
November	136	186	12	44	148	230
December	200	248	28	23	228	271
January	210	261	23	39	233	300
February	150	200	23	23	173	223
March	124	189	17	37	141	226
TOTAL	2,065	2,574	294	367	2,359	2,941

Appendix 1.5 – Consumer Complaints - Sections of the Act Breached April 2011 – March 2012

Section of the Consumer Protection Act	No. of Complaints
Section 12 - Misleading & Deceptive Conduct	16
Section 13 - False Representation	16
Section 14 - Offering Gifts and Prizes	1
Section 18 - Dual Pricing	1
Others	10

APPENDIX II

Decisions

- Decision on the Price Cap Plan 2012 (PCP2012) was issued on March 29, 2012.
- Decision on Long Run Incremental Cost Guidelines for Cable & Wireless (Barbados) Limited was issued on December 13, 2011.

APPENDIX III

Lecture

March 2012

Eighth Annual Lecture

“Dialogue with the Courts – How Can Organisations Best Articulate their Cases Before the Courts?”

- Accra Beach Hotel & Spa

Presenter:

The Honourable Mr. Justice Marston Gibson, Chief Justice of Barbados

Conference

November 2 – 4, 2011

9th Annual OOCUR Conference

- Accra Beach Hotel & Spa

“From LRIC to IC - the Twists and Turns”

Presenter:

Susanna Cooper-Corbin
Financial Analyst

“Determining the Best Form of Regulation For Newly Liberalised Telecommunications Activities”

Presenter:

DeCoursey Eversley
Director of Fair Competition

“Competition in the Electricity Industry in Barbados”

Presenter:

Antonio Thompson
Chief Economist

“Ex Ante and Ex Post Regulation: the Backbone of Every Regulator”

Presenter:

Kim Griffith-Tang How
General Legal Counsel

Commission Panels

APPENDIX IV

Utility Regulation

Telecommunications

Sir Neville Nicholls
Professor Andrew Downes
Mr. Gregory Hazzard
Mr. Trevor Welch
Ms. Monique Taitt

Electricity

Sir Neville Nicholls
Mr. Andrew Brathwaite
Mr. Gregory Hazzard
Mr. Andrew Willoughby
Mr. Alfred Knight

Fair Competition/ Consumer Protection

Professor Andrew Downes
Mr. Errol Humphrey
Mr. Andrew Brathwaite
Mr. Gregory Hinkson
Mr. Kendrid Sargeant

Commission Information

APPENDIX V

Commission Staff as at March 31, 2012

Chief Executive Officer	- Ms. Peggy Griffith, BA, MPA
Director of Fair Competition	- Mr. DeCoursey Eversley, BSc, MSc, MA, LLB
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, Attorney-at-Law
Accountant	- Mrs. Shernell Small-Husbands, BSc, FCCA
Chief Economist	- Mr. Antonio Thompson, BSc, MSc
Utility Analyst	- Dr. Marsha Atherley-Ikechi, BSc, MSc, PhD
Telecommunications Analyst	- Mr. Edward Hunte, BSc, MBA
Financial Analyst	- Mrs. Susanna Cooper-Corbin, BSc, FCCA, MBA
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 (Ag.)	- 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	- Ms. Sherri Worrell, BSc, MSc
Executive Secretary	- Mrs. Denese Alleyne, CPS
Office Manager	- Ms. Heather Boxill, APS
Assistant Accountant	- Ms. Sharon Grimes
Research/Administrative Assistant	- Ms. Marisha Walcott
Administrative Assistant	- Ms. Cheldine Holford
Administrative Assistant	- Ms. Cheryl Jones, ACS, BSc
Administrative Assistant	- Ms. Samantha Hinds
Senior Clerk (Ag.)	- Mrs. Julia Lowe-Regis
Help Bureau Officer	- Mrs. Wanda Crichlow-Trotman
Help Bureau Officer (Ag.)	- Ms. Sonia Spencer
Receptionist/Typist (Temp.)	- Ms. Saunta St. Hill
Office Attendant	- Mr. Corrie Thompson
Office Helper	- Mrs. Cecilia Alfay

AUDITORS

Ernst & Young

Contact Information

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

Notes

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