

## Competition Works Best

If you choose to compete you have to recognise that you might come in second. Competition can be a calculated and ruthless process. Competing firms often must attract customers away from each other. Efficient firms will usually increase their market share, while inefficient ones will often lose market share and sometimes be driven from the market. These occurrences are an inevitable consequence of competition. The Fair competition Act, unfortunately for those who would wish otherwise, does not seek to disrupt this process, but is designed rather to encourage it. The objective of competition policy is to protect competition rather than competitors.

The Fair Trading Commission under the Fair Competition Act is charged with the responsibility of promoting and maintaining effective competition in Barbados and it must do so responsibly. Every situation must be examined on its merits. There are some markets that because of the nature of the product or service being sold do not lend themselves to a large number of competitors. Some goods and services are so bulky or expensive to supply that only a few suppliers can provide them efficiently and still make a profit. These types of services may be categorised as ‘natural’ monopolies.

The Commission’s role except in regard to merger control is not to decide which markets should have a particular number of competitors. The natural laws of competition will dictate which markets end up with one or several competitors. The Commission’s role is to ensure that in the journey towards the ideal number of competitors no one usurps the process by introducing illegitimate anti-competitive practices in order to gain an advantage. To the extent that this process remains free and fair it must be left to itself.

The improvement of public welfare is at the heart of all Government’s business, and the promotion of competition as a core protocol of the treaty of Chaguaramas has been identified by Government as a key means of raising overall economic welfare and living standards. Competition does this automatically with its ‘invisible hand’;. Without intervention it propels companies to introduce extensive marketing campaigns, more competitive prices, improved quality products, improved terms of service, and innovative packaging and delivery methods.

Consumers too are an integral part of this dynamic process. They make the ultimate choice as to what they will purchase. They will purchase cheaper products most of the time if those products meet their tastes and needs. They will not purchase cheaper products if they do not like the taste or do not gain general satisfaction from them. The competitor who satisfies them best in terms of price, quality and service will thrive. Those who do not will fail. This experience clearly demonstrates the challenges of competition to businesses in a competitive industry, as well as the benefits to be gained by consumers from competition.

Who can decide whether it is better to eliminate competition in one market in preference of the survival of another market? For any one individual to decide to undertake this mantle is a risky and dangerous proposition. The history of economic success suggests that the less arbitrary intervention there is in the market the better. Who is entitled to make the simple decisions as to which products or markets are better for society?

Society can and will.

Individuals should refrain from seeking to interpret for society which markets it should support.

In addition it should be borne in mind that anti-competitive practices come in all forms. The Commission has over its short existence been faced with the more traditional forms of such practices such as predatory pricing, exclusive dealing, tied selling. It is important however for persons to note the provisions of Section 13. (1) of the Act states that:

All acts or trading practices prescribed or adopted by

(a) an enterprise (i.e. an individual, partnership or body (corporate or incorporate) engaged in business);

(b) an association of enterprises; or

(c) a group of affiliated companies

that result or are likely to result in the disruption or distortion of competition are prohibited.

The Act therefore not only sees the traditional infringements as a breach of the law but any act regardless of how subtle, or blatant, once it is likely to disrupt competition, may be deemed an infringement.

It must be further noted that the practice does not have to have the ultimate effect of a disruption of competition, but must be merely likely to do so, in order to be a contravention.

Persons must therefore be very measured when undertaking or initiating practices that can interrupt competition. The laws have been put in place and the requisite authorities to administer them, because competition needs only to be promoted - it works best uninterrupted.

If you have any questions about fair competition, consumer protection or utility regulation, please contact the Commission at 424 0260, 421 2FTC, or 421 2832.