

## Competition in the CSME: The Way Forward

Chapter eight of the Revised Treaty of Chaguaramas provides for the promotion and maintenance of fair competition in the CARICOM Single Market and Economy (CSME). To facilitate this objective the Treaty provides for the establishment of a Community Competition Commission (CCC), a regional agency whose responsibility it will be, to administer and enforce Competition law in the region.

Under the treaty member States are also obligated to enact a national competition law to ensure consistency and compliance with rules of competition. In addition member states are responsible for establishing and maintaining a national competition authority for the purpose of facilitating the implementation of the rules of competition, and for promoting competition at a domestic level.

In an attempt to facilitate these objectives Caribbean member states have been moving aggressively to introduce fair competition legislation and establish the relevant national institutions to administer these laws. At the community level a Task Force has been set up to oversee the establishment of the CCC. It is anticipated that this body would be fully operational during 2007.

Once in place this regional Commission along with the national Competition agencies will comprise a cooperative network expected to effectively enforce competition law within the CSME.

The Fair Trading Commission in collaboration with the Barbados Chamber of Commerce and Industry and the CSME Unit in the Prime Minister's Office, recently hosted a seminar aimed at developing a greater awareness and understanding among members of the local business community with respect to the development of this regional competition law and policy, and its implications for doing business within the region.

During the seminar the Commission described in detail the competition enforcement framework involving the individual member states and the Community Commission, and informed the business leaders present of the present state of development of this regional framework, including where each member territory was with its own implementation. The Commission also explained how the network was expected to function when a specific cross-border anti-competitive complaint arose.

The meeting heard that at the national level:

- Jamaica had put in place their Fair Competition Act and had established their Fair Trading Commission to administer this Act since 1993.
- Barbados had introduced its legislation, the Fair Competition Act, in 2003 and had put in place the Fair Trading Commission in 2001.
- Trinidad and Tobago had only passed its Act in May 2006, and this still had to be proclaimed. No national agency had as yet been established.
- Guyana too had in 2006 passed its Fair Trading Act and this too was now awaiting presidential proclamation.

The OECS territories were all at varying stages of introducing their Competition laws.

- Antigua & Barbuda &ndash; A draft Bill was with the Attorney General&rsquo;s Chambers.
- Belize &ndash; A draft Bill was under consideration by Cabinet
- Dominica &ndash; A draft Bill was being prepared
- Grenada &ndash; A draft Bill was with the Attorney General&rsquo;s Chambers
- St. Kitts & Nevis - No work done as yet
- St. Lucia &ndash; Legislation being now being considered for enactment
- St. Vincent & the Grenadines &ndash; A draft Bill was with the Attorney General&rsquo;s Chambers
- Suriname &ndash; A Competition Bill was soon to be laid in Parliament

In regards to the CCC the audience was informed that:

- Suriname had already been designated as the headquarters State for the regional body,
- The Privileges and Immunities Agreement had been completed
- A Proposal for structure of Commission had been done
- A capital and recurrent expenditure budget had been developed
- A tentative Schedule for Implementation was developed, and a
- Task Force to oversee the establishment of the body had been set up and had already convened a series of meetings to ensure that the programme of implementation was achieved.

The meeting heard that once this regional Commission along with the other national bodies were established any company operating in the region which felt that it was affected by the anti-competitive conduct of another business anywhere in the region could now obtain redress by making a complaint to the CCC.

For example, a Barbadian business affected or simply having valid information that another regional business say in Trinidad, was acting anti-competitively, could make a complaint to the Barbados Fair Trading Commission which would now be required to inform CCC of the matter. The Community Commission would in response to the report from Barbados, conduct an investigation into the complaint. In conducting an investigation the Community Commission would have the power like the national authorities in both Barbados and Trinidad to gather full information on the matter, including the power to search and seize any necessary documents. Having concluded its investigation the regional Commission, finding that the Trinidadian business being complained against was in breach of the Treaty, would have full powers under the domestic laws to prohibit the relevant conduct and if warranted impose through the domestic courts a

commensurate fine on the business.

The seminar participants were informed that these developments were imminent and that they were now the first in the community who were informed and armed with the relevant information. In light of this they should now be prepared to manage their business conduct accordingly.

For further information, please contact the Commission at 424-2FTC.