



Fair Trading Commission **Annual Report 2011**

*Celebrating 10
Years*

2011 ANNUAL REPORT

FAIR TRADING COMMISSION



Letter of Transmittal

Fair Trading Commission
Good Hope
Green Hill
St. Michael
July 14, 2011

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, 2011 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 marks the tenth anniversary of the establishment of the Fair Trading Commission. The Commission was established on January 02, 2001, replacing the Public Utilities Board which was in existence for 46 years.

As I reflect on the last 10 years it is clear that although the Commission has been in existence for a relatively short period, it has issued several important decisions including decisions on applications for rate increases by telecommunications and electricity service providers, standards of service and interconnection between telecommunications service providers.

The Commission has also issued a merger decision and findings reports, with directives, on several fair competition cases involving abuse of dominance. It has also approved criteria, to be used by commercial banks, for the selection of qualified valuers in addition to making recommendations to govern the practice of professional associations.

The Commission has also been very proactive in its outreach and has had a sustained educational programme from inception especially with respect to consumer protection. The importance of consumers understanding their rights and responsibilities cannot be over emphasised. It is an important dynamic for effecting change in supplier behaviour.

In 2011 the Commission issued its decision on the application for costs by intervenors who participated in the hearing of the application by the Barbados Light and Power Company Limited for increased rates. The Commission's decision was based on its assessment that most of the applicants for costs had made a useful contribution to the Commission's understanding of the issues that arose during the rate hearing. It is a milestone event for the Commission because it was the first time that the Commission has awarded costs.

However, the Commission remains concerned that a number of procedural issues, which can affect its operations, remain unresolved because of the length of time it has taken to obtain a final decision in the BNOCL court case and the implementation of recommendations submitted to the Government for amendments to its legislation and other legislation which the Commission has jurisdiction to administer.

I wish to thank my fellow Commissioners and staff for their hard and useful work during this year.



Neville V. Nicholls
Chairman

Members of the Commission 2010 - 2011



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, 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 2010-2011 the Commission held six (6) 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. During the reporting period, eleven (11) panel meetings were convened.

Fair Trading Commission at a Glance

Role of the Commission

The Fair Trading Commission "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

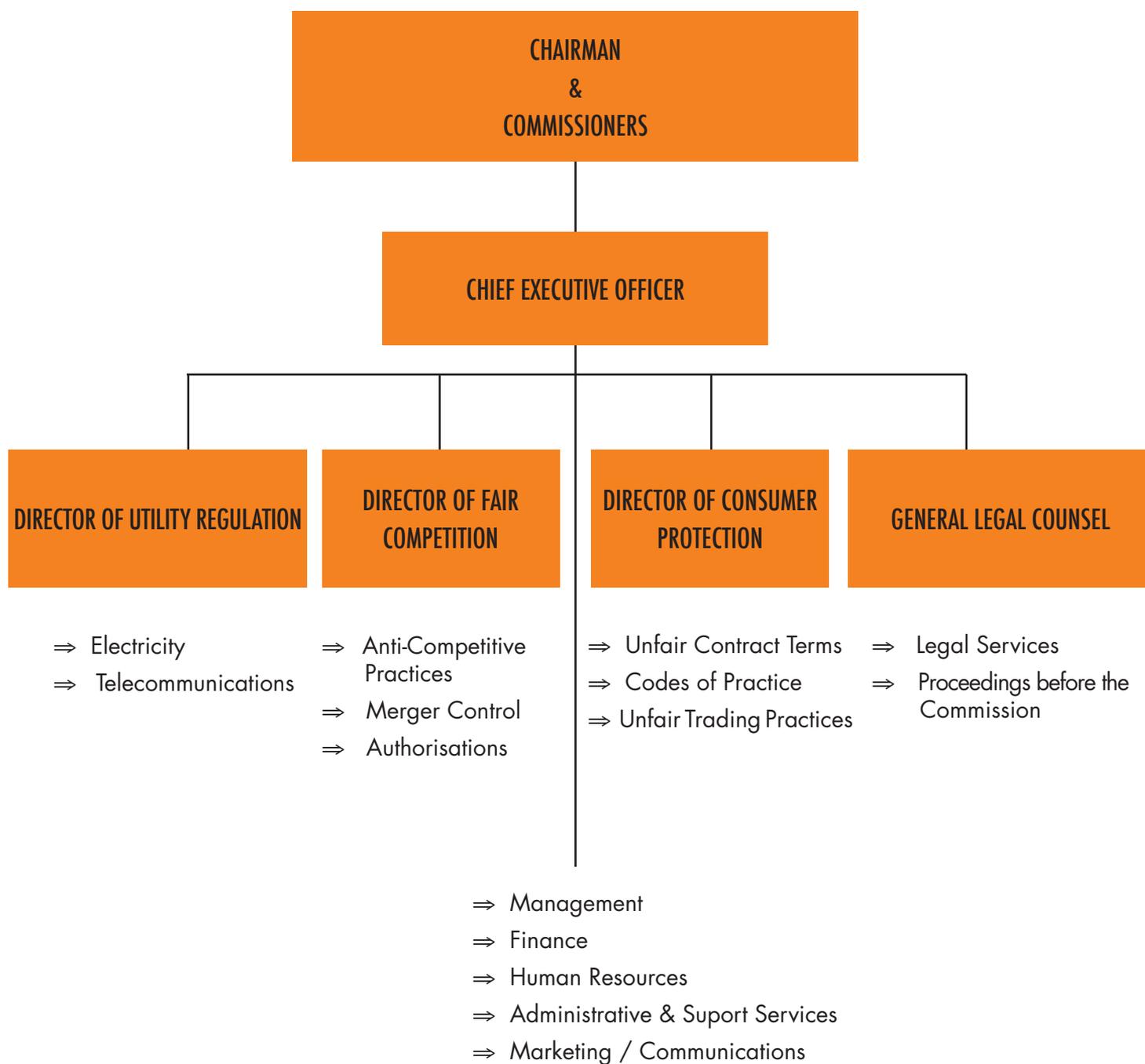
The Commission's goals are

- 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, development of regulations, as well as appeals and reviews. Commission staff provide a range of services to assist Commissioners in adjudicatory matters.

Organisational Structure



The Year in Review

Utility Regulation

The electricity service supplied by the Barbados Light & Power Company Limited (BL&P) and telecommunications services provided by Cable & Wireless (Barbados) Ltd. (C&W) are regulated by the Utility Regulation Division of the Fair Trading Commission. The Minister responsible for Telecommunications designates the telecommunications services to be regulated. In carrying out its mandate in this area the Commission seeks to ensure that high quality, efficient and reliable service is provided to the Barbadian public by the regulated service providers at reasonable prices.

The responsibilities of the Utility Regulation Division are defined in the Utilities Regulation Act and include establishing the principles for setting rates, determining the applicable standards of service and carrying out periodic review of rates, principles for setting rates and standards of service. The Commission is also responsible for certain provisions of the Telecommunications Act.

Electricity

Pilot Programmes

On March 19, 2010 the Commission issued its Findings Report which agreed to the BL&P implementing three pilot programmes for a period of no more than two years. The pilot programmes are a Time-of-Use (TOU) Tariff, a Renewable Energy Rider (RER) and an Interruptible Service Rider (ISR). The Commission also required the BL&P to submit quarterly reports on the performance of the programme. These reports among other things include information on the number of participants, the kWh renewable energy sold (RER), the number of interruptions (ISR) and the peak and off-peak kWh sold (TOU).

The Pilot Programmes were implemented in June 2010. At the end of March 2011, there were four RER customers, three of them using photovoltaics only and the fourth using a combination of photovoltaics and wind energy. There were five customers participating in the ISR rider and nine utilising the TOU pilot. Participation in the RER programme is expected to increase with the implementation of government's Sustainable Energy Framework project which will provide some financial assistance to participants. The Commission determined that at the end of the pilot programme the company must submit a comprehensive report.

BL&P Majority Share Acquisition

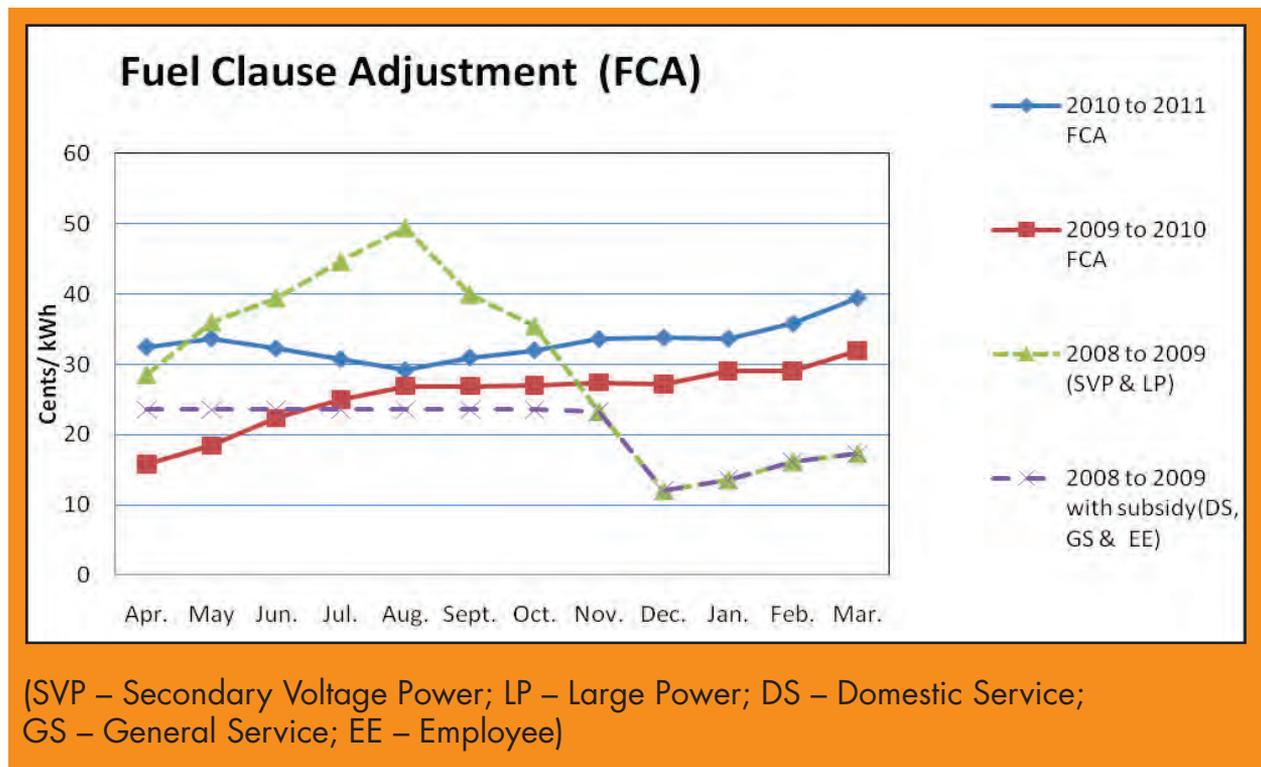
Directors of Emera, new investors in the BL&P Holdings and senior BL&P managers met with the Commission for an introductory briefing session on February 15. During the meeting Emera provided the Commission with an overview of Emera and the strategy for the BL&P and the Caribbean. EMERA acquired controlling interest (78.6%) in Light & Power Holdings which is the parent company of the BL&P. This Canadian company also has 80.4% of the Grand Bahama Power Company and 19% of Lucelec shares in St. Lucia.

Utility Regulation (continued)

Analysis of Fuel Clause Adjustment

The Fuel Clause Adjustment (FCA) is a direct pass-through charge to the customer. The FCA seeks to recover the cost of fuel used in the generation of electricity. This charge is inherently variable as it is dictated by the price of fuel on the world market. Between April 2010 and March 2011 there was an overall increase of 21.6% in the FCA (the 2009/2010 reporting period recorded a 100% increase). The FCA averaged 33.1225¢/kWh for the current reporting period as compared to 25.5850¢/kWh for 2009/2010. The FCA for August 2010 was 29.135¢/kWh, 12% below the average and the lowest for 2010/2011. By the end of the reporting period the FCA had reached 39.48¢/kWh. The monthly figures are shown in Figure 1.1.

Figure 1.1 – Fuel Clause Adjustment



Utility Regulation (continued)

Motion for Review – Barbados Consumer Research Organisation Inc.

The Commission's Decision on Barbados Consumer Research Organisation Inc.'s (BARCRO) Notice of Motion to Review the FTC Decision on the BL&P's rate application was issued on September 22. The Commission found that BARCRO in its Motion and written submissions had not demonstrated that errors of fact or law, change in circumstances or any other grounds for review existed. Therefore, a variation or modification of the Commission's decision was not justified.

Application for Costs

The Commission's Decision on the Application for Costs by Intervenors was issued on November 17. The Commission agreed that some Intervenors would receive costs for their contribution to the BL&P Rate Hearing.

Telecommunications

Review of the C&W Enhanced Allocation Model (EAM)

The FTC is currently undertaking a comprehensive review of C&W's Enhanced Allocation Model (EAM) which is an accounting separation system that identifies the profitability of the various services provided by C&W. The project is expected to be completed by July, 2011 and involves reviewing the model structure, cost drivers, operational expenses, revenues and the allocation of costs to the various services. Under the Price Cap Plan C&W is required to annually submit an updated version of the EAM.

Long Run Incremental Cost (LRIC) Guidelines

In its 2010 Decision on the C&W Consolidated Reference Interconnection Offer the Commission determined that C&W would be required to develop interconnection rates based on Long Run Incremental Cost (LRIC) methodology using the Total Service Long Run Incremental Cost (TSLRIC) which measures the cost of additional resources required to deliver an additional unit of a given service.

The TSLRIC model implementation process consists of three main phases - publication of TSLRIC guidelines, model building and review of the TSLRIC model which will be built by C&W. The Commission also determined that C&W will be required to follow the guidelines when developing the LRIC model.

As such C&W was required to submit a framework document in August 2010 which dealt with the basic principles and approach that C&W considered important to the process. This framework was taken into consideration by the Commission in the development of a set of draft LRIC guidelines which will be made available to the public for comment in May 2011.

Utility Regulation (continued)

Price Cap Plan 2008

For the period under review the following reports were submitted by C&W in accordance with the Price Cap Plan 2008 Compliance Rules and Procedures:

- Audited Statutory Financial Statements;
- Annual Regulatory Statements including a reconciliation to the audited statutory financial statements; and
- Annual updated versions of the Enhanced Allocation Model (EAM)

Review of the compliance filings showed that C&W had complied with the terms specified in the Price Cap Plan 2008 Compliance Rules and Procedures. In compliance with the Price Cap Plan 2008 Decision reductions in Residential International Direct Dialed (IDD) rates were implemented effective March 31, 2011.

Digicel (Barbados) Limited's Application for a Review of the Consolidated Reference Interconnection Offer Decision

The Commission denied Digicel's request for review and issued this decision on August 18, 2010. The Commission found that Digicel did not demonstrate that errors of fact or law or any other ground for review existed.

Tropical Storm Tomas

The Commission was called upon to assess the adequacy of the response of the BL&P and C&W to customers in the aftermath of tropical storm Tomas which impacted the island on Friday, October 30, 2010. The Commission required the companies to submit reports on their restoration efforts and the effect on their customers. The review indicated that communication was the issue that was most critical to customers. The BL&P reported that most of the company's 120,000 customers suffered some supply disruption and approximately 80% of system demand was lost.

Full restoration was completed by November 15, 2010 to the estimated 30,000 customers who were significantly affected. C&W reported that as of December 10, there were 16,560 reported faults of which 14,918 were resolved.

In view of C&W's need to deploy their resources on restoration of the network due to damage from the storm, a general exemption condition was invoked for the period October 30 to November 29. This meant that C&W, due to circumstances beyond their control (force majeure), was not required to pay compensation to customers for failing to meet the Guaranteed Standards of Service.

Standards of Service

C&W and the BL&P are required to make compensatory payments to customers when they fail to meet defined Commission Guaranteed Standards of Service. These are related to installation and fault repair of individual services. The Commission also has in place Overall Standards of Service for each company which are designed to reflect the general performance of the company on an island wide basis and there is no compensation to individual customers. The availability of the telephone network during peak time and the frequency of the BL&P's meter reading are examples of Overall Standards of Service.

C&W

The new Standards of Service Decision for C&W was implemented on April 01, 2011. Two new Guaranteed Standards were introduced - GTS 1A and GTS 1B - which deal with approval of application for telephone service, and installation of telephone service after approval, respectively. Two new Overall Standards of Service were added relating to the response time at the Customer Call Centre. Cable & Wireless attained most of the minimum levels stated in the Overall Standards of Service.

C&W's performance in the Fault Repair standard of both the Guaranteed and Overall Standards of Service fell significantly below par during the dry season (December to May). This was attributed to heavy unseasonal rainfall and the extended impact of Tropical Storm Tomas. Tables 1.1 and 1.2 provide excerpts of the compliance reports.

Utility Regulation (continued)

Table 1.1 - Cable & Wireless Guaranteed Standards of Service

GUARANTEED STANDARD	TARGET	COMPENSATORY PAYMENT	NUMBER OF TIMES TARGET NOT MET	AVERAGE % COMPLIANCE
GTS1A -Approval of application for service.	Residential Customers - no more than 7 working days.	Refund of the applicable installation fee to customers.	31	99.09%
GTS1B -Installation of Service, after approval.	Residential Customers - no more than 7 working days.	Refund of the first month's bill.	182	94.72%
GTS7 Wrongful Disconnection		Automatic minimum payment of BDS\$15 to residential customers.	27	82.77%

Table 1.2 - Cable & Wireless Overall Standards of Service

OVERALL STANDARD	TARGET	% ACHIEVED
Repeated Loss of Service (OTS 2)	No more than 5% of faults should reoccur within 30 days of repair of first failure.	97.36%
Trunk Blocking	At least 95% of calls should be completed during peak traffic.	99.85%

BL&P

The new Standards of Service Decision for BL&P was implemented on April 01, 2011 and included a new Overall Standard of Service for the response time by the BL&P Customer Service Centre. Generally, the company met most of the targets set for the overall standards. Judging from the types of complaints received at the Commission, consumers have concerns relating to the frequency of meter reading. There was however slight improvement in this standard as the compliance was 94.7% compared with 93.6% for last year. Tables 1.3 and 1.4 provide excerpts of the compliance reports.

Utility Regulation (continued)

Table 1.3 - BL&P Guaranteed Standards of Service

GUARANTEED STANDARD	TARGET	COMPENSATORY PAYMENT	NUMBER OF TIMES TARGET NOT MET	AVERAGE % COMPLIANCE
GES 1 (Restore supply after fault on customer's service)	Within 12 hours	\$45.00 (Dom.), \$90.00 (G.S.) or \$215.00 (SVP/LP) plus the equivalent or part thereof for each additional 12 hours without service.	6	97.9%
GES 4 (Provide a simple service connection)	Within 12 working days	Refund of installation fee.	94	93.1%

Table 1.4 - BL&P Overall Standards of Service

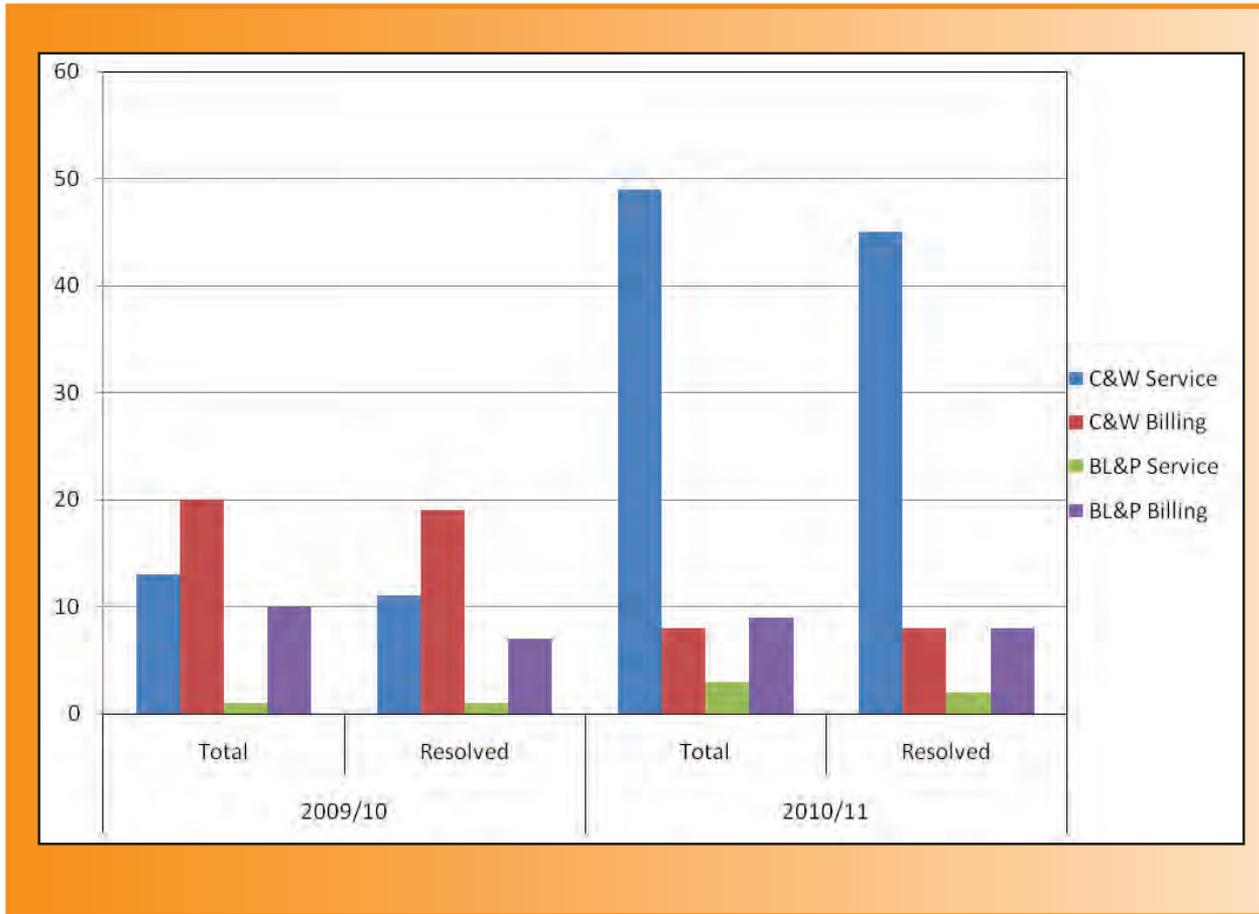
OVERALL STANDARD	TARGET	% COMPLIANCE
OES 1 (Frequency of meter reading)	100% of domestic and general service customers' meters to be read every two months.	94.7%
OES 2 (Response to complaints of high/low voltage)	95% of complaints to be responded to in 5 working days.	97.8%

Utility Complaints/Queries

There were 57 C&W and 11 BL&P consumer complaints for the period April 01, 2010 to March 31, 2011 compared with 33 C&W and 11 BL&P in the previous year. The dramatic increase in C&W's figures occurred in the period November to December and was attributed to the number of persons who were out of service for an extended period after tropical storm Tomas. There were also 443 telephone queries – a high percentage of which pertained to storm-related issues.

Utility Regulation (continued)

Figure 1.2 – Utility Service Complaints



HIPCAR Model Legislation

The Commission participated in and contributed to the International Telecommunications Union project on the Harmonisation of ICT Policies, Legislation and Regulatory (HIPCAR) procedures. The objective of the project is to enhance competitiveness through the harmonisation of Information and Communication Technologies (ICT) Policies, Legislation and Regulatory Procedures in the Commonwealth Caribbean Region. One of the outputs of the project was model legislation for Universal Access, Interconnection Regulation and Licensing.

Fair Competition

The main objectives of the Fair Competition Act are:

- a) *to promote and 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;*

In seeking to achieve these objectives the Commission undertook a number of activities during the year. These activities are set out under the following sections:

- Investigating and adjudicating anti-competitive conduct
- Queries, complaints and other requests for information
- Educating and informing businesses and consumers with regard to their rights and responsibilities and
- Cooperating with Member States and the CARICOM Competition Commission.

Investigating and Adjudicating Anti-Competitive Conduct

During the past year the Commission in seeking to fulfill the objectives set out under the Act, 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 arose in a wide range of sectors including commercial banking, telecommunications, distribution and news broadcast. Most of these investigations were resolved during the financial year, while others are on-going. Set out below are some of the main investigations undertaken during the year.

Local Administration Charge by Shipping Agents of Barbados

The Commission, based on information received in March 2010, commenced an investigation into the setting of a Local Administration Charge (LAC) by shipping agents. The LAC is a fixed local recovery surcharge, invoiced separately in Barbados and charged to both importers and exporters by the shipping agents for providing administrative services to the customer. The customer is required to pay this charge in addition to the standard freight charges which the customer pays to the Cargo Liner for the shipment of merchandise.

It should also be noted that the shipping agents are also paid a commission by the shipping lines for providing administrative services on behalf of the lines.

Fair Competition (continued)

The specific allegation in the matter was that sometime in 2004 the Shipping Association of Barbados met and the agents agreed among themselves to introduce a local administration charge. The recommended charges were as follows:

- Bds\$50.00 per Import container, any size, any type,
- Bds\$50.00 per Export Bill of Lading for full container load(s),
- Bds\$30.00 per LCL¹ Bill of Lading Import or Export,
- Bds\$30.00 per Bill of Lading for Break Bulk, or Bulk shipments, Import or Export,
- Bds\$30.00 per Bill of Lading for vehicles, new or used, RO/RO or LO/LO² Import or Export

The charges are subject to VAT. All Agents except one implemented these charges in the way agreed in 2004. However, effective January 31, 2010 this agency also started to charge the same LAC to its customers.

The Commission investigated this matter and in January 2011 agreed that there was sufficient evidence to suggest that the conduct of the agents amounted to a breach of the Fair Competition Act. The Commission concluded that even though the Association issued a circular suggesting that the administrative charges were recommendations which could be ignored by agents, their actions indicated unanimous agreement by all except one agent who subsequently also introduced the charge. In February 2011 the Commission forwarded its preliminary findings to the Association and to the individual members for their response. When the responses are received the Commission will assess them and make a final determination on the matter.

Refusal to Supply – CBC

On January 14, 2010, DIRECTV in Barbados contacted the Commission alleging that the Caribbean Broadcasting Corporation (CBC) had declined its request to advertise DIRECTV's Digital Video Recorder (DVR) because to do so would conflict with that company's policy of not advertising for competitors. The specific explanation provided by CBC was that "CBC's Advertising Policy gives it the right to refuse advertising which promotes competitors or their brands". The Commission subsequently began an investigation into this complaint.

At its meeting of July 8, 2010, the Commission determined, on a preliminary basis, that CBC's act of refusing to supply advertising service to DIRECTV was likely to amount to a breach of the Fair Competition Act. In addition, the Commission agreed that the advertising policy adopted by the company was in conflict with the objectives of the Fair Competition Act as it had the potential to disrupt competition.

¹ Less than Container Load
² RO/RO – Roll On/Roll Off; LO/LO – Load On/Load Off

Fair Competition (continued)

The report in support of this decision was prepared and forwarded to CBC, which was requested to respond to this finding. In January 2011, CBC acknowledged its dominance in the market for the supply of television advertising services in Barbados but refuted the claim that it had abused its dominance.

In January 2011, the Commission met and having reviewed CBC's response, agreed that there was insufficient evidence to conclude that CBC's refusal to advertise DIRECTV's Digital Video Recorder (DVR) was a breach of the Fair Competition Act. However the Commission found that because CBC is the only legally licensed terrestrial television broadcaster in Barbados its advertising policy which selectively refuses to provide advertising because a business may be sponsored by a potential CBC competitor, is likely to have the effect of distorting competition and should be revised to one that was compliant and consistent with the goal of promoting free and fair competition. The Commission is working with CBC to ensure that the policy is amended.

Discriminatory/Unfair Pricing by Arawak Cement Plant

This is a continuing investigation which relates to a series of allegations made in June 2009 in a letter originally directed to the Ministry of Commerce and Trade. The allegations related to the operations of Arawak Cement Limited all of which have been resolved except a matter pertaining to the discretionary nature of handling charges levied by Arawak. It is alleged that the handling charges levied by Arawak are higher for some private trucks collecting cement than for others. The charges are also higher than for Arawak's trucks when Arawak undertakes the delivery. The company has attempted to explain the differences but further information is still being requested by the Commission.

During the period, in spite of promises to submit the required information the company has still not complied with the Commission's request. Operational reasons were given for the tardiness in responding. The Commission expects to conclude this investigation during 2011 but should the Commission not receive this information a final assessment will be made based on the available evidence.

Charges in the Banking Industry

The aim of this investigation is to determine whether bank charges are in any way arrived at through agreement between the commercial banks. To determine this the Commission began to assess these charges over a period of time looking at the frequency of the changes in these charges, the activities for which they were charged and the amounts by which they were increased, to assess trends which may suggest collaboration. The Commission expects to complete the analysis and finalise the report in 2011.

Fair Competition (continued)

Competitive Restrictions in the Distributive Sector

The Commission is continuing its investigation into the level of competition within the distributive sector to determine whether there are any limitations to competition in this sector which are contributing to the higher prices. The overall response to the Commission's request for information has been slow. Information is still being gathered on the level of concentration in the market, the freedom of entry and exit, the vertical linkages among firms, the arrangement of credit and other possible restrictions to competition.

Resale Price Maintenance in the Distribution Industry

The Commission has begun an investigation into the practice of resale price maintenance in Barbados. The aim of the investigation is to determine the prevalence of this practice as the Commission received information that the practice is ongoing in respect of certain products.

Many respondents have to date indicated that they are not required to, and are not influenced in any way by wholesalers/manufacturers to charge particular prices. The Commission is continuing to compile information including information on the specific products which it is alleged are the main ones affected by this practice.

Interlocking Directorships

The Commission has begun a study on interlocking directorships in Barbados. The law prohibits interlocking directorships where a director sits on the board of two or more companies that are 'significant' competitors, and that director's presence has the effect of welding the policies of the competing companies together in a way that lessens competition between them. Interlocking directorships that do not exert such influence are not condemned.

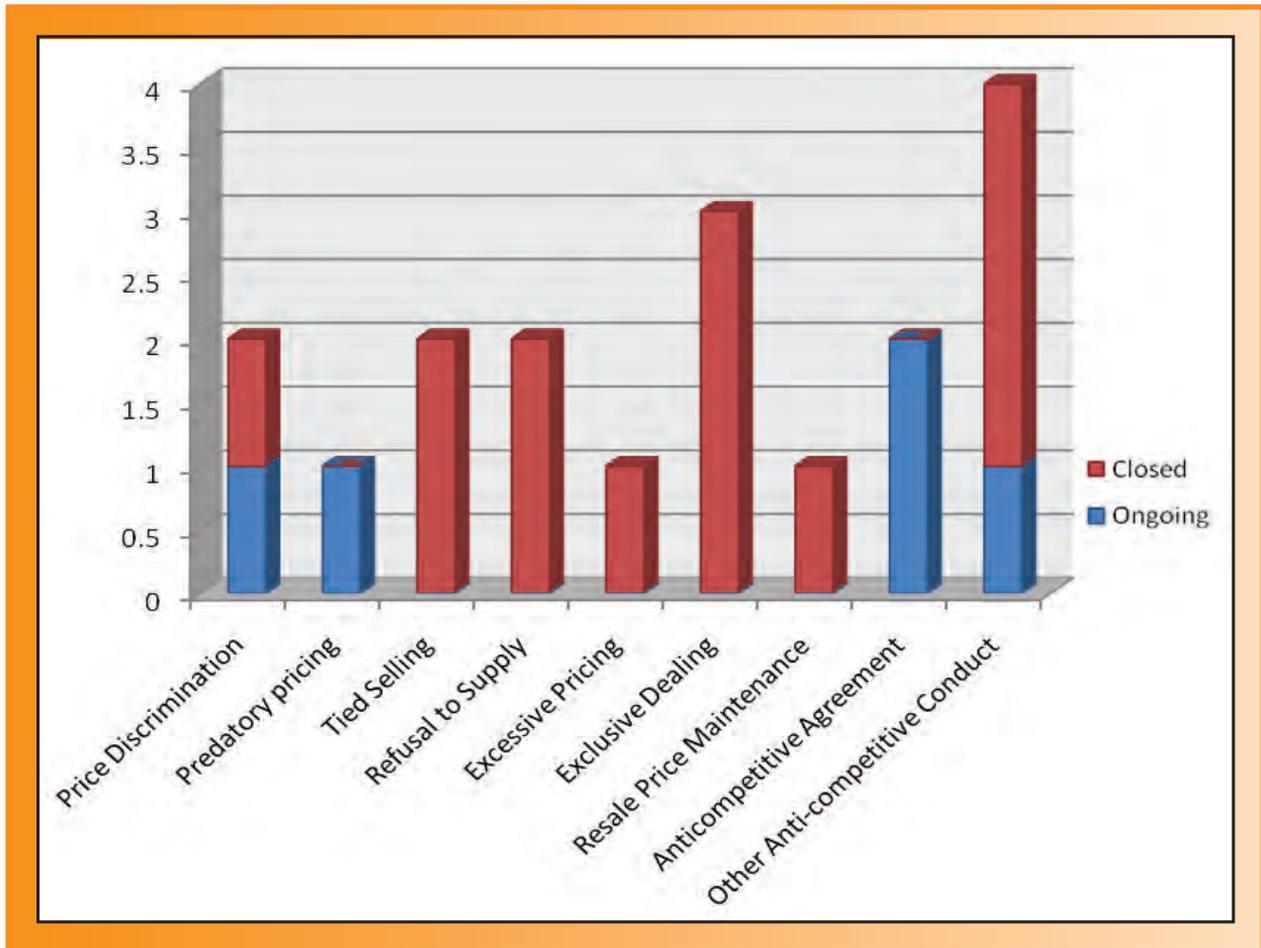
A number of instances where a director serves on several boards have already been observed, but in most instances the boards are affiliated rather than competing companies. It is expected that the Commission will shortly be able to identify the instances of interlocks in order to determine if they have resulted in any lessening of competition.

Queries, Complaints and Other Requests for Information

The Division continued to respond to telephone, e-mail and walk-in queries as well as requests for general information on Competition Law. From complaints received and on its own initiative the Commission conducted investigations into 18 cases of alleged anti-competitive conduct during the year. The majority of the investigations concerned allegations of abuse of dominance namely exclusive dealing and tied selling. In the period under review, thirteen (13) of these matters were resolved while five (5) were on-going at March 31, 2011 (Figure 2.1).

Fair Competition (continued)

Figure 2.1 – Investigations of Allegations of Anti-Competitive Conduct April 2010 – March 2011



High Court Matter

Barbados National Oil Company Ltd. (BNOCL) v. Fair Trading Commission (FTC)

On May 15, 2009 the High Court handed down the judgment in Supreme Court Suit No. 1811 of 2006 BNOCL v. FTC. The Commission was the unsuccessful litigant in this matter and commenced the appeal process in the latter part of 2009. The Commission and its external Legal Counsel made an appearance before the Registrar on June 16, 2010 to settle the index of the Appeal. The Commission is still awaiting a date for the Appeal.

Educating and Informing Businesses and Consumers

An integral part of the Commission's responsibility is to foster a culture of competition in Barbados by making persons aware of the negative consequences of anti-competitive practices while appreciating the benefits of keen competition. The public awareness and education programme is also designed to make persons aware of the signs of such activity which can assist the Commission in reducing such harmful practices.

Fair Competition (continued)

Business Outreach Programme

During the year, the Commission continued to develop its outreach programme, by deepening its relationship with the various business organisations. Follow-up contact was made with key business agencies like the Small Business Association (SBA), the Barbados Manufacturers' Association (BMA), the Chamber of Commerce and Industry and the Youth Entrepreneurship Scheme.

The Commission's staff made presentations to each of these organisations, participated in panels, or invited them to be part of its training programme. The Commission's aim is to work with these different business groups to address the common anti-competitive concerns of these groups and to educate and increase the awareness of small businesses with respect to fair competition.

Tertiary Education Programme

During the year staff also continued the tertiary level education programme presenting to sixth-form school children at different secondary schools, the Barbados Community College, the Samuel Jackman Prescod Polytechnic and to graduate and undergraduate students at the University of the West Indies. These programmes were generally tailored to meet the interest level and knowledge of the various students. In most instances the students were very receptive to the information presented.

Annual Training Programme

As part of its ongoing advocacy programme, the Commission also hosted a two-day training workshop entitled "Competition Law & Policy" on March 30 and 31. The aim of the workshop, the third of its kind, was to expose key members of the local business community to the fundamentals of competition law and policy. The Commission invited a resource person from the United States Federal Trade Commission (US FTC) in order to provide an international perspective on the discussions. The sessions were highly interactive and judging from the depth of the discussion it was clear that there was a good transfer of knowledge. Certificates were also presented to participants.

Public Procurement

Government procurement activity represents a significant percentage of Government's overall expenditure. Anti-competitive practices on the other hand such as bid rotation and subcontracting agreements, (i.e. bid rigging agreements), are activities that can manipulate the procurement process and thereby negatively impact Government's expenditure objectives.

For this reason the Commission sought to introduce a programme to identify and eliminate the threat of bid rigging in public procurement. To this end the Commission hosted two training seminars entitled, "Detecting, Mitigating and Fighting Bid Rigging in Public Procurement" in June 2010. The seminars sought to educate senior public sector officials on how to detect and

Fair Competition (continued)

prevent bid rigging in the procurement process. Since then a few departments have contacted the Commission for guidance having identified activity which they suspect to be anticompetitive in nature. In February the Commission released the publication entitled, *"Detecting Mitigating and Fighting Bid Rigging in Public Procurement: Guidelines and Checklist"*.

Cooperating with Regional Member States and the CARICOM Competition Commission (CCC)

At Section 5 of the Fair Competition Act the Commission is required to cooperate with the CARICOM Competition Commission (CCC) as well as the authorities of the other member states for the purpose of promoting and maintaining competition throughout the region. Staff participated in the discussions of the 2nd Technical Working Group (TWG) on Trade Related Issues in the CARICOM-Canada Trade and Development Negotiations.

Staff continued to facilitate the development of competition law in the region through discussions with consultants attached to the CSME unit who were seeking to develop model regulations based on the model CARICOM bill. These regulations are designed to enhance the enforcement of the various national competition laws in the region and the Commission was able to provide the consultants with information in regard to competition enforcement procedures. The Commission also provided comment to the CSME Unit of CARICOM, on the proposed Merger Control Regulation for inclusion in the Treaty of Chaguaramas.

Since the Commission is the only institution with the experience of merger enforcement, the Commission was identified as a critical source of the likely experiences that regional agencies would encounter in their regulation of mergers. It also participated in discussions dealing with the procedural regulations that will govern the operations of the CARICOM Competition Commission (CCC).

Technical Assistance to Trinidad and Tobago

During the year staff was able to share with the officials in Trinidad and Tobago oral and documented information with regard to the enforcement of competition law. Staff shared in regard to the Commission's experiences, along with information pertaining to requisite texts and other important documentation for use in a Competition Agency. The staff developed a list of the most regularly used texts, journals and other sources of information that the agency should seek to obtain.

Technical Assistance to the OECS

The Organisation of Eastern Caribbean States (OECS) is in the process of finalising the establishment of the OECS Competition Authority. In this regard they sought the assistance of the Commission in providing technical assistance in regard to the ideal structure for such an authority and the expected challenges associated with the enforcement of competition law in a CARICOM state. Staff presented their experiences via video conference to officials of the OECS member states and fielded questions.

Consumer Protection

The Commission is empowered under the Consumer Protection Act, CAP.326D to ensure that consumers' rights as enshrined in the Act are protected.

During the reporting period the Commission undertook a number of activities. These included:

- Providing guidance to businesses and consumers through educational programmes;
- Complementing its enforcement powers by working with businesses to encourage compliance and good business practices;
- Reviewing contracts for unfair terms;
- Investigating alleged unfair trade practices with respect to goods and services;
- Researching topical and important consumer protection issues;
- Increasing the quality and accessibility of consumer information, to build consumer knowledge, trust and confidence in the marketplace, so that consumers are in a position to resolve matters by themselves.

Contract Terms

According to its mandate, the Commission continued to examine Standard Form Contracts for unfair contract terms. These are contracts which are drawn up in advance by suppliers and are not individually negotiated with consumers. During the reporting period, the Commission reviewed forty-five (45) contracts from various institutions, such as financial, telecommunications, entertainment, and the retail industry. These contracts contained one thousand eight hundred and fifty-nine (1,859) terms. Fifty-eight (58) terms were found to be in breach of the Act. Where such breaches were identified, the Commission requested the businesses to amend or delete the infringing terms.

Educational Outreach Programme

In an effort to make consumers more aware of their rights and responsibilities and to make businesses aware of the Consumer Protection Act the Commission intensified its educational outreach campaign.

Businesses

The Commission made visits to institutions such as the National Cultural Foundation (NCF), the National Conservation Commission (NCC), Duty Free Caribbean, Stokes & Bynoe, the Barbados Port Authority, JB's SuperCentre, Nassco Ltd., the National Initiative for Service Excellence (NISE), Consolidated Finance, Rose & La Flamme, Tropical Computers, The Nation Publishing Company Limited, Banks Holdings Limited, Stansfeld Scott, Lasco B'dos Limited, Regional Business Systems/ H. Jason Jones, Little Switzerland and Pharmacy Sales. In addition to presentations on the requirements of the Act staff discussed and clarified specific issues raised.

Consumer Protection

Where the Commission identified there was a need for a business to have a "Compliance Programme" in place, the business was informed of the importance of implementing such a programme to reduce breaches. A compliance programme is voluntary and consists of measures to ensure that information placed in the public domain about goods and services is accurate. Compliance Programmes can help a business to avoid the serious ramifications of non-compliance, which may include financial penalties.

Schools

Staff visited 12 primary and secondary schools and met with a total of 1,000 pupils and their teachers to discuss their rights and responsibilities under the Act.

In October 2010, the Commission launched a poster competition for students at primary schools between the ages of nine and 12 years old. The purpose of the competition was to stimulate the minds of children and make them more aware of the role that the Commission plays in protecting consumer rights. Entries were received from a number of schools, and Ms. Janice Whittle, Curator of the Queen's Park Gallery and Mr. Michael Piggott, Manager of Design at the Barbados Investment Development Corporation graciously agreed to assist in judging the entries.

Of the posters submitted, five winners were chosen and prizes were awarded as follows:

- 1st - Christon Fitt - The People's Cathedral Primary School
- 2nd - Kayla Croney - The People's Cathedral Primary School
- 3rd - Omari Roach - The People's Cathedral Primary School
- 4th - Lesongé Corbin-Kirton - St. James Primary School
- 5th - Suriel St. Hill - Westbury Primary School

Relationship with Consumers

Queries

A total of two thousand nine hundred and forty-one (2,941) queries were received from consumers who sought advice on several consumer matters. Of these, two thousand five hundred and seventy-four (2,574) were telephone queries while one thousand two hundred and five (1,205) consumer queries were sent to the Office of Public Counsel. Three hundred and sixty-seven (367) were from consumers who visited the Commission. There were also thirty-six (36) written queries to the Commission.

Complaints

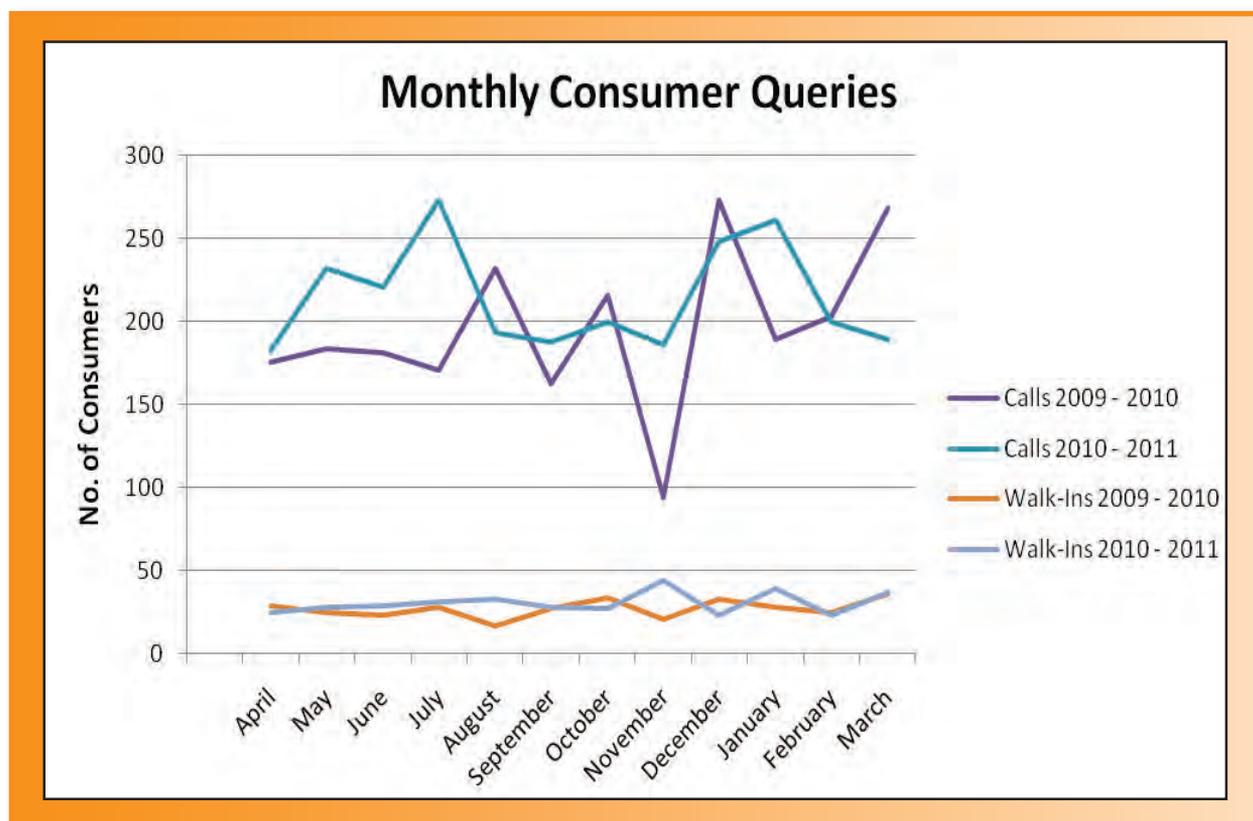
The Fair Trading Commission Act, CAP.326B requires a consumer to first try to settle a matter before seeking the assistance of the Commission. However, if the consumer fails to resolve the matter amicably with the supplier, the consumer may seek the Commission's assistance in resolving the matter.

Consumer Protection

The Commission's success in educating consumers about their rights and responsibilities under the Act has enabled many consumers to resolve matters independently in the marketplace. This has led to a reduction in the number of complaints lodged with the Commission during the reporting period.

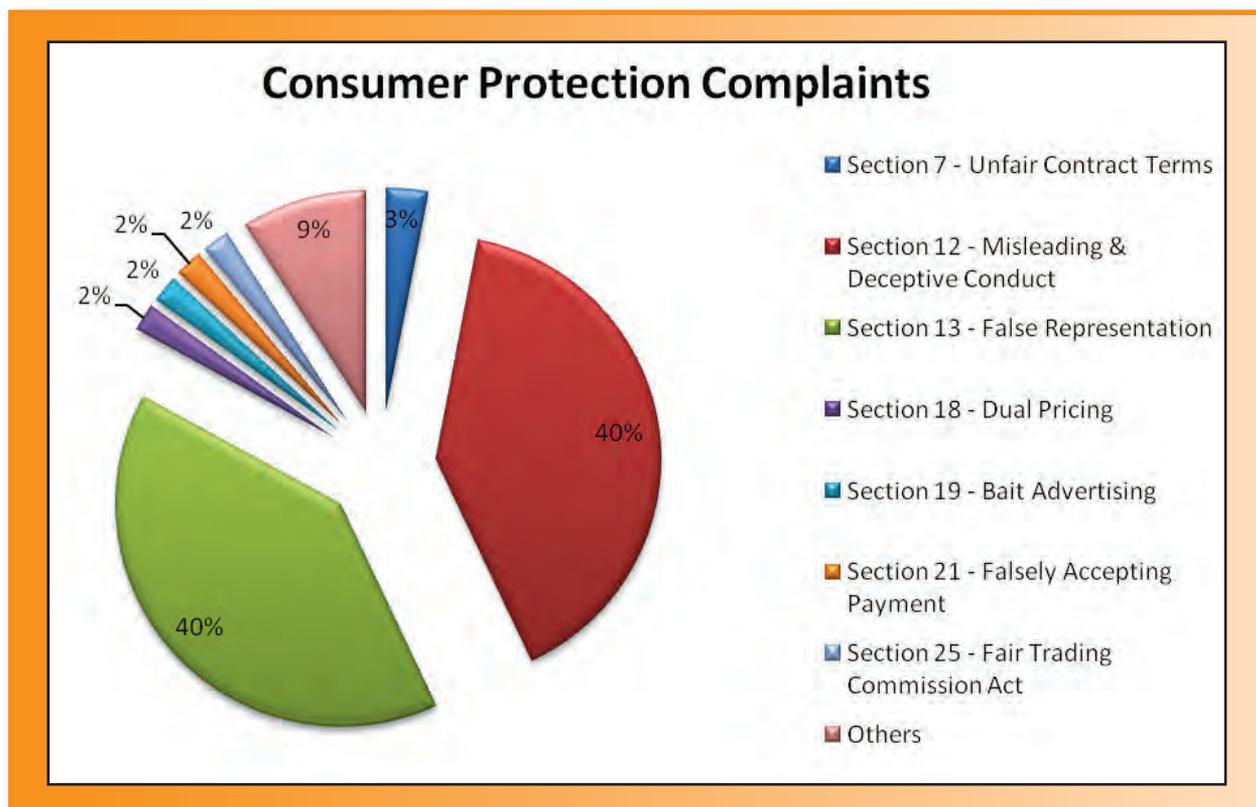
During this period, twenty (20) complaints were lodged with the Commission compared to thirty-one (31) in the previous year. Of the twenty (20) complaints received, fourteen (14) have been resolved. Investigations related to the remaining six (6) are continuing.

Figure 3.1 – Consumer Queries



Consumer Protection (continued)

Figure 3.2 – Consumer Complaints – Sections of Act Breached



Relationship with Businesses

Unfair Trade Practices

In the second quarter of 2010, the Commission conducted visits, unannounced, to stores in the Bridgetown area to ensure that they were complying with the Consumer Protection Act. The inspection revealed that of the forty-nine (49) stores visited, twenty-one (21) displayed the statement 'No Exchange No Refund' in stores or on their invoices or receipts. These stores were all contacted and informed of the legal ramifications of displaying these statements.

In the first quarter of 2011 the Commission carried out an inspection of stores including those visited in 2010. A total of seventy-three (73) stores were visited. Twelve (12) of these were found in breach of the Act. Of the forty-nine (49) stores visited in 2010, only one (1) store still displayed the "No Exchange No Refund" statement. The Commission is contacting the stores breaching the Act to have the matter rectified.

Monitoring of the print media revealed ten (10) misleading advertisements which were in breach of the Act. These businesses were all contacted in order to have the advertisements amended. Consumers also brought to the Commission's attention several breaches of the Act, which they identified while shopping. Again, these businesses were contacted. The Commission intends to continue monitoring all businesses for compliance with the Act.

Consumer Protection (continued)

Research

Banking Industry

In 2010, the Commission embarked on an investigation of Standard Form Contracts utilised by the six (6) commercial banks in Barbados in transactions with their customers/consumers. Standard Form Contracts are contracts that are presented to the banks' customers/consumers for acceptance, but have not been individually negotiated with the customers/consumer.

In the context of the study, a customer/consumer is defined by the Act, as an individual and not a person carrying on a business for example, a company or a firm.

The aim of this study was to analyse the Standard Form Contracts for the presence of unfair contract terms. An unfair contract term creates a considerable imbalance in the rights of the customer/consumer and the supplier/bank, and where the disparity is detrimental to the customer/consumer, the term is considered unfair.

The Commission reviewed one thousand two hundred and ninety-one (1,291) contract terms. Of the terms reviewed, fifty-four (54) were found to be in breach of the Act. The terms which contravened the Act had the following characteristics:

1. Banks can change/vary contract terms or charges attached to goods or services without notice;
2. Imbalance in rights between supplier and customer, with supplier having superior rights;
3. Banks can limit their liability;
4. Banks can limit the liability of their agents;
5. Banks can terminate or renew the contract at their sole discretion.

The Commission will shortly inform the banks and ask them to respond to its findings. Those banks not in compliance will be required to amend or delete the unfair contract term(s).

Relationship with International Bodies

The Commission, as a member of the International Consumer Protection Network (ICPEN) continued to participate in this network. The Commission assisted in the creation of an International Consumer Directory and obtained invaluable information with respect to consumer matters that are likely to affect consumer welfare in Barbados.

Seventh Annual Lecture

The Commission hosted its 7th Annual Lecture on Friday, February 25, at the Hilton Barbados. The lecture was delivered by Mr. William Kovacic on the topic "The Second Decade: The Life Cycle of Regulatory Agencies – What's Next for the FTC?".

Mr. Kovacic spoke about the role of regulatory agencies such as the FTC and their ability to perform effectively in the challenging economic and political climates of their individual countries. He mentioned that the Commission had performed well in its first decade compared to the mature agencies during their first 10 years. He also spoke about what agencies need to do to remain relevant and useful in the years ahead.

Mr. Kovacic has served on the United States Federal Trade Commission (US FTC) since January 2006, and served as Chairman from March 2008 until March 2009. Since January 2009, he has been Vice Chair for Outreach of the International Competition Network.

Opening remarks were made by Senator the Honourable Haynesley Benn, Minister of Commerce and Trade.

Visit by Representative of the International Telecommunications Union (ITU)

Mr. Brahim Sanou, the newly-elected International Telecommunications Union Director of the Bureau of Telecommunications Development made a courtesy visit to the Commission in February to discuss with staff the work of the ITU and its relevance to the Commission.

Public Education and Awareness (continued)

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 publication 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.
- One on One with the FTC appeared weekly in the online newspaper Barbados Today. The articles generally featured several aspects of consumer protection, and have also addressed concerns in relation to fair competition and utility regulation.

Public Education and Awareness (continued)



Consumer Protection Officer (Ag.) Nichole Mayers (left) and Officer-in Charge of the Consumer Protection Division Judy Maynard (right) with the winners of the Commission's inaugural Poster Competition. From left are 5th prize winner Suriel St. Hill, 2nd prize winner Kayla Croney, 1st prize winner Christon Fitt, 3rd prize winner Omari Roach, and 4th prize winner Lesongé Corbin-Kirton



From left, Minister of Commerce and Trade, Senator the Honourable Haynesley Benn, Deputy Permanent Secretary, Ms. Ernesta Drakes and Permanent Secretary, Dr. Louis Woodroffe at the Commission's 7th Annual Lecture

Public Education and Awareness (continued)



CEO Peggy Griffith, Chairman Sir Neville Nicholls and guest lecturer Mr. William Kovacic at the 7th Annual Lecture



A section of the audience at the Annual Lecture

Public Education and Awareness (continued)



Mr. Sean G. Dillon, Deputy Assistant Director, Bureau of Competition at the United States Federal Trade Commission as he delivered a presentation at the FTC workshop on Competition Law and Policy



Mr. Brahim Sanou, the International Telecommunications Union Director of the Bureau of Telecommunications Development

Organisational Development

Review of Legislation

Commission staff actively participated in the bi-monthly Review of Legislation Committee meetings which were concluded during the reporting period and assisted with completing the final report on all of the accepted proposals. The Commission anxiously awaits the outcome.

Training and Development

In order to retain its operational effectiveness and efficiency, the Commission recognises that it is necessary for its members of staff to benefit from programmes and initiatives aimed at capacity building. Staff participated in workshops, seminars and conferences with emphasis on Utility Regulation, Fair Competition and Consumer Protection, and the Alternative Dispute Resolution programme hosted by the Stitt Feld Handy Group.

Professional alliances were also strengthened by participating in networks such as the International Competition Network (ICN), the Organisation of Caribbean Utility Regulators (OOCUR) and the International Consumer Protection and Enforcement Network (ICPEN).

During the period under review, three Commissioners and one staff member benefitted from participation in the Utility Regulation and Strategy training programmes hosted by the Public Utilities Research Centre (PURC).

The opportunities for capacity building, as well as for the continued strengthening of alliances with local organisations were also enhanced, with attendance at workshops and seminars hosted by agencies which included the Central Bank of Barbados, the National Productivity Council, the University of the West Indies' Cave Hill Campus and the Cave Hill School of Business, the Human Resource Management Association of Barbados (HRMAB), the Barbados Employers' Confederation (BEC), the National Initiative for Service Excellence, the Barbados Association of Information Management and the Institute of Chartered Accountants of Barbados.

Organisation of Caribbean Utility Regulators (OOCUR)

Ms. Peggy Griffith, Chief Executive Officer of the Commission was elected as Vice Chair of OOCUR at the 8th OOCUR General Assembly. Members of the Commission joined other regional regulators at the 8th Annual OOCUR Conference held in Ocho Rios, Jamaica from November 3rd - 5th, 2010. The theme of the conference was "Regulation, Convergence and the Competitive Environment".

Cooperating with International Agencies and Authorities

The Commission continued to maintain strong linkages with the US FTC under an International Competition Network (ICN) partnership arrangement. The ICN is a virtual network of over 103 countries which promotes efficient and effective antitrust enforcement worldwide and



Organisational Development (continued)

also ensures consistency in enforcement and the elimination of unnecessary or duplicative procedural initiatives. Staff convened a number of teleconferences during the year to discuss and share experiences on specific topics in the area of competition law enforcement such as cartel investigations.

Looking to the Future

The Commission believes that recommended changes to its legislation will be placed before Cabinet for agreement and thereafter the amendment process should commence.

Education and advocacy will continue to be important features of the work of the Commission. The educational programme will continue to embrace the primary and secondary schools and persons in the workplace as the Commission seeks to ensure that everyone, consumers and businesses, is aware of the provisions of the legislation it administers.

It is hoped that the appeal in the matter of the BNOCL vs. FTC will be concluded. The Commission needs to have the matter of complainants, under the Fair Competition Act, having to first seek to resolve their disputes themselves and come to the Commission only if they fail to have the dispute resolved, properly settled.

The Commission believes that exposure to the work of other agencies and the new emerging regulatory techniques are critical to the Commission's development. It is for this reason that it will continue to forge links with relevant regional and international networks. The Commission is deputy chair of the Organisation of Caribbean Utility Regulators (OOCUR) and expects to become a full member of the International Consumer Protection Enforcement Network (ICPEN) after having partnership status for the last two years. The Commission also hopes to increase its visibility in the International Competition Network (ICN).

The roll out of Government's Sustainable Energy Framework Project (SEF) and the expected increase in uptake in renewable energy by the Barbados Light & Power Company Limited (BL&P) will also require regulatory intervention especially in relation to interconnection. At the completion of the pilot programme the data collected may lead to the establishment of a proposal from the BL&P for a Time of Use (TOU) rate. This will create an additional class of customer and will necessitate a hearing to determine the rate.

The Price Cap Plan 2008 which governs the rates of the regulated services of Cable & Wireless (Barbados) Limited (C&W) will be reviewed commencing nine months prior to its end in March 2012. This review will be utilising data obtained from the review of C&W's Enhanced Allocation Model (EAM) which looks at the profitability of C&W's services.

In the area of Fair Competition the Commission expects that its stronger and more organised relationships with the various business organisations and members' better understanding of competition issues will assist in the identification of a greater number of allegations and complaints related to abuses of competition which it will be required to pursue. Efforts will also be focussed on market studies and proactive research in critical business areas such as issues of exclusive distributor contracts and interlocking directorships.

**Financial Statements
Fair Trading Commission
For the year ended March 2011
(Expressed in Barbados dollars)**

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AUDITORS' REPORT

To the Board of the Fair Trading Commission

We have audited the accompanying financial statements of the Fair Trading Commission, which comprise the statement of financial position as of 31 March 2011 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 the 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

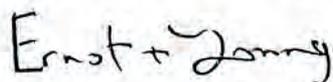
Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether 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 2011 and its operations and its cash flows for the year then ended in accordance with International Financial Reporting Standards.

A handwritten signature in black ink that reads 'Ernst & Young'.

CHARTERED ACCOUNTANTS

Barbados
30 June 2011

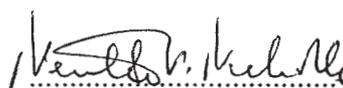
FAIR TRADING COMMISSION

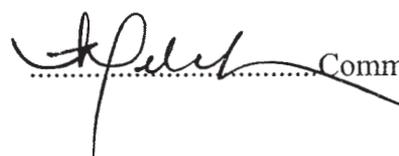
Statement of Financial Position
As of 31 March 2011

	Notes	2011 \$	2010 \$
Assets			
Current assets			
Cash	4	1,219,803	636,156
Time deposits	4	104,565	102,021
Accounts receivable	5	1,011,059	1,639,987
Prepayments		94,303	134,359
		<u>2,429,730</u>	<u>2,512,523</u>
Accounts receivable	5	37,500	7,576
Property and equipment	6	678,769	717,559
		<u>3,145,999</u>	<u>3,237,658</u>
Liabilities			
Current liabilities			
Accounts payable and accrued liabilities		123,222	85,200
Deferred income	7	105,067	61,900
		<u>228,289</u>	<u>147,100</u>
Net assets		<u>2,917,710</u>	<u>3,090,558</u>
Represented by:			
Government advances		998,396	1,632,987
Government grants		1,602,604	1,247,811
Accumulated surplus		316,710	209,760
		<u>2,917,710</u>	<u>3,090,558</u>

The accompanying notes form part of the financial statements.

Approved by the Commission on 30 June 2011 and signed on its behalf by:

 Chairman

 Commissioner

FAIR TRADING COMMISSION

Statement of Comprehensive Income Year ended 31 March 2011

	Notes	2011 \$	2010 \$
Income			
Government grant		3,118,644	2,852,092
Levies		998,396	1,632,987
Other income		45,650	41,665
Gain on disposal of equipment		61,300	2,603
		<u>4,223,990</u>	<u>4,529,347</u>
Expenses			
Personal emoluments	8(a)	2,209,189	2,121,312
Rental of property		420,334	414,082
Other operating expenses	8(c)	355,581	355,700
Professional services	8(b)	255,441	412,649
Utilities		159,556	135,950
Depreciation	6	134,076	182,110
Pensions and gratuities	8(a)	133,945	195,604
National Insurance contributions	8(a)	127,442	119,553
Maintenance of property		72,572	66,938
Supplies and materials		70,447	78,386
Other personal emoluments	8(a)	45,042	41,226
Travel		32,312	20,591
Group medical		30,416	32,600
Subscriptions and contributions		27,962	21,432
Rental of equipment		26,270	22,793
Library books and publications		14,479	25,486
Bank charges		1,976	1,925
Utility rate hearing costs		-	236,742
		<u>4,117,040</u>	<u>4,485,079</u>
Surplus		<u>106,950</u>	<u>44,268</u>

The accompanying notes form part of the financial statements.

FAIR TRADING COMMISSION

Statement of Changes in Equity Year ended 31 March 2011

	Government advances \$	Government grants \$	Accumulated surplus \$	Total \$
Balance at 1 April 2009	970,211	2,243,711	165,492	3,379,414
Government contributions	1,632,987	3,608,651	-	5,241,638
Government grants utilized	-	(4,604,551)	-	(4,604,551)
Repayments to Government	(970,211)	-	-	(970,211)
Surplus for the year	-	-	44,268	44,268
Balance at 31 March 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

FAIR TRADING COMMISSION

Statement of Cash Flows Year ended 31 March 2011

	2011 \$	2010 \$
Cash flows from operating activities		
Personal emoluments	(2,209,362)	(2,121,485)
Rental of property	(417,750)	(414,000)
Other operating expenses	(327,258)	(392,668)
Professional services	(203,386)	(418,429)
Utilities	(163,556)	(133,175)
Pensions and gratuities	(133,945)	(194,724)
National Insurance contributions	(127,539)	(119,603)
Maintenance of property	(70,424)	(61,530)
Supplies and materials	(70,772)	(78,751)
Other personal emoluments	(45,245)	(41,025)
Group medical	(30,416)	(32,377)
Travel	(32,312)	(20,591)
Subscriptions and contributions	(28,321)	(21,032)
Rental of equipment	(26,270)	(22,793)
Library books and publications	(16,074)	(20,020)
Bank charges	(1,976)	(1,925)
Utility rate hearing costs	-	(236,742)
Net cash used in operating activities	(3,904,606)	(4,330,870)
Cash flows from investing activities		
Car loans repaid by staff	17,076	7,500
Car loans disbursed to staff	(50,000)	-
Increase in time deposits	2,544	2,656
Interest received	43,106	38,960
Purchases of equipment	(84,286)	(28,630)
Proceeds from sale of equipment	50,300	3,074
Net cash (used in) from investing activities	(21,260)	23,560
Cash flows from financing activities		
Advances from Government	4,509,513	3,608,651
Levies paid in by utility service providers	1,632,987	970,211
Repayment of Government advances	(1,632,987)	(970,211)
Decrease in litigation reserve	-	(195,000)
Net cash from financing activities	4,509,513	3,413,651
Increase (decrease) in cash for the year	583,647	(893,659)
Cash – beginning of year	636,156	1,529,815
Cash – end of year	1,219,803	636,156

The accompanying notes form part of the financial statements.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2011

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

Basis of preparation

These financial statements, expressed in Barbados dollars, have been prepared under the historical cost convention and are in accordance with International Financial Reporting Standards ("IFRS"). The accounting policies adopted are consistent with those of the previous financial year except as follows:

a) Changes in accounting policies and disclosures

The Commission has adopted the following new and amended IFRS and IFRIC interpretations as of 1 January 2010:

- IFRS 2 Share-based Payment: Group Cash-settled Share-based Payment Transactions
- IFRS 3 Business Combinations (Revised) and IAS 27 Consolidated and Separate Financial Statements (Amended) including consequential amendments to IFRS 2, IFRS 5, IFRS 7, IAS 7, IAS 28, IAS 31 and IAS 39
- IAS 39 Financial Instruments: Recognition and Measurement – Eligible Hedged Items
- IFRIC 17 Distributions of Non-cash Assets to Owners
- Improvements to International Financial Reporting Standards (May 2008 and April 2009)

Other amendments issued in May 2008 and April 2009 resulting from improvements to IFRSs to the following standards:

- IFRS 2 Share-based Payment
- IFRS 5 Non-current Assets Held for Sale and Discontinued Operations
- IFRS 8 Operating Segments

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2011

2. Significant accounting policies (cont'd)

a) Changes in accounting policies and disclosures (cont'd)

- IAS 1 Presentation of Financial Statements
- IAS 7 Statement of Cash Flows
- IAS 17 Leases
- IAS 34 Interim Financial Reporting
- IAS 38 Intangible Assets
- IAS 39 Financial Instruments: Recognition and Measurement
- IFRIC 9 Reassessment of Embedded Derivatives
- IFRIC 16 Hedge of a Net Investment in a Foreign Operation

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

b) Standards issued but not yet effective

Standards issued but not yet effective up to the date of issuance of the Commission's financial statements are listed below. This listing is of standards and interpretations issued, which the Commission reasonably expects to be applicable at a future date. The Commission intends to adopt those standards when they become effective.

- IAS 24 Related Party Disclosures (Amendment)
- IAS 32 Financial Instruments: Presentation – Classification of Rights Issues (Amendment)
- IFRS 9 Financial Instruments: Classification and Measurement
- IFRIC 14 Prepayments of a minimum funding requirement (Amendment)
- IFRIC 19 Extinguishing Financial Liabilities with Equity Instruments

Improvements to IFRSs (issued in May 2010)

The IASB issued Improvements to IFRSs, an omnibus of amendments to its IFRS standards. The amendments have not been adopted as they become effective for annual periods on or after either 1 July 2010 or 1 January 2011.

The amendments listed below, are not considered to have a reasonable possible impact on the Commission:

- IFRS 3 Business Combinations
- IFRS 7 Financial Instruments: Disclosures
- IAS 1 Presentation of Financial Statements
- IAS 27 Consolidated and Separate Financial Statement
- IFRIC 13 Customer Loyalty Programmes

c) Receivables

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

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2011

2. Significant accounting policies (cont'd)

c] Receivables (cont'd)

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

d] Property and equipment

Property and equipment 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.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2011

3. Significant accounting judgments, estimates and assumptions

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

Property and equipment

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

4. Cash and time deposits

Cash comprises an operating account which bears interest at 2.25% per annum.

Time deposits bear interest at the rate of 2.85% per annum (2010 - 2.85%). The deposits are due to mature on 15 November 2011 and 14 February 2012 respectively.

5. Accounts receivable

Current:

	2011	2010
	\$	\$
Utility service providers	998,396	1,632,987
Car loan receivable	10,000	7,000
Other	2,663	-
	<u>1,011,059</u>	<u>1,639,987</u>

Non-current:

	2011	2010
	\$	\$
Car loan receivable	<u>37,500</u>	<u>7,576</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 2011.

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2011

6. Property and equipment

	Leasehold improvements \$	Computer and office equipment \$	Fixtures \$	Vehicles \$	Total \$
Cost					
Balance – 1 April 2009	819,570	377,042	254,756	237,655	1,689,023
Additions	-	27,856	774	-	28,630
Disposals	-	(112,809)	(58,655)	-	(171,464)
Balance – 31 March 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
Accumulated depreciation					
Balance – 1 April 2009	81,957	314,113	237,926	183,517	817,513
Charge for the year	81,957	55,569	8,224	36,360	182,110
Disposals	-	(112,338)	(58,655)	-	(170,993)
Balance – 31 March 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
Net book value					
31 March 2011	573,699	29,053	4,974	71,043	678,769
31 March 2010	655,656	34,745	9,380	17,778	717,559
1 April 2009	737,613	62,929	16,830	54,138	871,510

7. Deferred income

	2011 \$	2010 \$
Deferred income – beginning of year	61,900	133,894
Add: Assets acquired during the year	95,286	28,630
Less: Depreciation charge on equipment for the year	(52,119)	(100,153)
Assets disposed of during the year (net)	-	(471)
Deferred income – end of year	105,067	61,900

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2011

8. Operating expenses

a) Employment costs

	2011	2010
	\$	\$
Personal emoluments	2,209,189	2,121,312
National Insurance contributions	127,442	119,553
Other personal emoluments	45,042	41,226
	<hr/>	<hr/>
	2,381,673	2,282,091
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Pensions for retired employees and gratuities to contracted employees amounted to \$133,945 (2010 - \$195,604).

b) Professional services

	2011	2010
	\$	\$
Regulatory consultancies	226,716	389,481
Other consultancy services	5,783	1,376
Audit fees	22,942	21,792
	<hr/>	<hr/>
	255,441	412,649
	<hr/> <hr/>	<hr/> <hr/>

c) Other operating expenses

	2011	2010
	\$	\$
Overseas training and conferences	164,620	60,202
Local training	26,756	21,376
Hosted seminars	53,693	61,068
Refreshments and hospitality	22,900	27,545
Commissioners' fees	50,500	120,030
Public relations	14,903	41,930
FTC publications	16,294	19,838
Postage and courier services	5,915	3,711
	<hr/>	<hr/>
	355,581	355,700
	<hr/> <hr/>	<hr/> <hr/>

FAIR TRADING COMMISSION

Notes to the Financial Statements
Year ended 31 March 2011

9. Lease commitments

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

	2011	2010
	\$	\$
Property rental:		
Due within 1 year	435,925	414,000
Between 2 and 5 years	952,925	1,311,000
	1,388,850	1,725,000
	1,388,850	1,725,000

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 2011

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

(SVP – Secondary Voltage Power; LP – Large Power; DS – Domestic Service; GS – General Service; EE – Employee)

Month	April 2010 to March 2011 (All classes)	April 2009 to March 2010 (All classes)	April 2008 to March 2009 (SVP & LP classes)	April 2008 to March 2009 (with subsidy for (DS, GS & EE classes)
April	32.4633	15.8099	28.5220	23.5375
May	33.6871	18.4356	36.0308	23.5375
June	32.2438	22.3399	39.4286	23.5375
July	30.7056	24.9719	44.6095	23.5375
August	29.1349	26.8980	49.4821	23.5375
September	30.9430	26.9048	39.9634	23.5375
October	31.9795	27.0151	35.4779	23.5375
November	33.6020	27.4151	23.2598	23.2598
December	33.7912	27.1449	12.0313	12.0313
January	33.6561	29.0777	13.5406	13.5406
February	35.7891	29.0777	16.1709	16.1709
March	39.4738	31.9299	17.2685	17.2685

Appendix 1.2 – Utility Service Complaints

Utility Complaints	2010/2011		2009/2010	
	Resolved	Total	Resolved	Total
C&W Service	45	49	11	13
C&W Billing	8	8	19	20
BL&P Service	2	3	1	1
BL&P Billing	8	9	7	10

Statistical Tables

APPENDIX I

Appendix 1.3 – Allegations and Queries of Anti-Competitive Conduct

Type of Query/ Complaint	On-going		Resolved		Total	
	2010	2011	2010	2011	2010	2011
Price Discrimination	1	1	0	1	1	2
Predatory Pricing	0	1	2	0	2	1
Refusal to Supply	1	0	5	2	6	2
Exclusive Dealing	0	0	3	3	3	3
Excessive Pricing	1	0	4	1	5	1
Leveraging	0	0	2	0	2	0
Price Squeezing	0	0	1	0	1	0
Price Fixing	0	0	1	0	1	0
Tied Selling	0	0	0	2	0	2
Resale Price Maintenance	0	0	0	1	0	1
Anti-Competitive Agreements	0	2	4	0	4	2
Other Anti-Competitive conduct	0	1	4	3	4	4
TOTAL	3	5	26	13	29	18

Statistical Tables

APPENDIX I

Appendix 1.4 – Consumer Queries

	CALLS		WALK-INS		CONTACTS	
	2009 - 2010	2010 - 2011	2009 - 2010	2010 - 2011	2009 - 2010	2010 - 2011
April	176	183	29	25	205	208
May	184	232	25	28	209	260
June	181	221	23	29	204	250
July	171	273	28	31	199	304
August	232	193	17	33	249	226
September	163	188	27	28	190	216
October	216	200	34	27	250	227
November	94	186	21	44	115	230
December	273	248	33	23	306	271
January	189	261	28	39	217	300
February	203	200	25	23	228	223
March	268	189	36	37	304	226
TOTAL	2,350	2,574	326	367	2,676	2,941

Appendix 1.5 – Consumer Complaints – Sections of Act Breached

Section of Consumer Protection Act	No. of Complaints
Section 7 - Unfair Contract Terms	2
Section 12 - Misleading & Deceptive Conduct	22
Section 13 - False Representation	22
Section 18 - Dual Pricing	1
Section 19 - Bait Advertising	1
Section 21 - Falsely Accepting Payment	1
Section 25 - Fair Trading Commission Act	1
Others	5

Decisions

- Decision on Digicel (Barbados) Limited's Application for a Review of the Consolidated Reference Interconnection Offer Decision – August 18, 2010;
- Decision on BARCRO Notice of Motion to Review the FTC Decision on the BL&P Rate Application - September 22, 2010;
- Decision on the Applications for Costs arising out of the BL&P Rate Review Proceedings – November 17, 2010.

Lecture

March 2011

Seventh Annual Lecture

"The Second Decade: The Life Cycle of Regulatory Agencies – What's Next for the FTC?"
- Hilton Barbados

Presenter:

Mr. William Kovacic, Commissioner, United States Federal Trade Commission

Conferences

November 3 – 5, 2010

8th Annual Conference of Organisation of Caribbean Utility Regulators
– Ocho Rios, Jamaica

"The Electricity Regulator and Greater Use of Renewable Energy"

Presenter:

Sandra Sealy, Director of Utility Regulation

"Walking the Regulatory Tightrope: Interconnection - The Barbados Experience"
Dava Leslie, Senior Legal Officer (Ag.)

Presenter:

Workshop

June 2010

"Regulatory Challenges in the Barbados Telecommunications Sector"

– Bay Gardens Hotel, St. Lucia

Presenter:

Mr. Edward Hunte

Telecommunications Analyst

June 2010

"The Likely Effects of the Economic Partnership Agreement and the CARICOM-Canada FTA on Competition in CARICOM"

– Central Bank of Barbados

Presenters:

Dr. Troy Waterman, Economist, and
Ms. Sherri Worrell, Research Officer

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 Staff as at March 31, 2011

Chief Executive Officer	–	Ms. Peggy Griffith, BA, MPA
Director of Utility Regulation	–	Mrs. Sandra Sealy, BSc, MBA, MSc
Director of Fair Competition	–	Mr. DeCoursey Eversley, BSc, MSc, MA, LLB
General Legal Counsel (Ag.) Officer in Charge,	–	Mrs. Kim Griffith-Tang How, LLB, Attorney-at-Law
Consumer Protection	–	Ms. Judy Maynard, LLB, LLM
Chief Economist	–	Mr. Antonio Thompson, BSc, MSc
Utility Analyst	–	Dr. Marsha Atherley-Ikechi, BSc, MSc, PhD
Telecommunications Analyst	–	Mr. Edward Hunte, BSc, MBA
Accountant	–	Ms. Shernell Small, BSc, FCCA
Financial Analyst	–	Mrs. Susanna Cooper-Corbin, BSc, FCCA, MBA
Human Resources Officer	–	Mrs. Arlene Bushell, BSc
Senior Legal Officer (Ag.)	–	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	–	Mrs. Heather Boxill, APS
Assistant Accountant	–	Ms. Sharon Grimes
Research/Administrative Assistant	–	Ms. Marisha Walcott
Administrative Assistant	–	Ms. Shareka Gibbs
Administrative Assistant	–	Ms. Cheryl Jones, ACS, ACAM
Administrative Assistant (Ag.)	–	Ms. Samantha Hinds
Senior Clerk	–	Mrs. Cherylann Jemmott, BA
Help Bureau Officer	–	Ms. Julia Lowe
Help Bureau Officer	–	Mrs. Wanda Crichlow-Trotman
Receptionist/Typist	–	Ms. Sonia Spencer
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