

The Role of the FTC and the Importance of Competition to the Sustainable Development of T&T

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by

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1. The Fair Trading Act 2006 under which the Fair Trading Commission was established in 2014 follows a line of regulatory bodies that have been established since this country's independence 58 years ago. Fair trading legislation is new to Trinidad and Tobago given the full proclamation of the Fair Trading Act in February 2020 but such legislation is not new to the Caribbean or to the wider world. The first Fair Trading legislation was the Sherman Act of 1890 and the first competition agency was the United States Federal Trade (USFTC) Commission which was established in 1914. In the CARICOM region the first piece of fair trading legislation was the Fair Competition Act of Jamaica which established the Jamaica Fair Trading Commission in 1993. Indeed in the case of the USA and to be current the big four, Amazon, Apple, Microsoft, Google and Facebook are currently under investigation by the USFTC and the Department of Justice (DOJ) for alleged anti-trust activities. The underlying assumption is that fair competition among businesses is good for the consumer and society as a whole and it therefore fosters sustainable development of market economies.
2. The role of the TTFTC as stated in the Act is to "promote and maintain fair competition in Trinidad and Tobago". In order to do this the Commission is expected to investigate complaints and other situations, to advise

companies and the Minister as necessary and to take offending companies to the Court if warranted. In short the role of the Commission is to ensure that the business environment is fair as far as competition is concerned.

3. By way of background, since independence Trinidad and Tobago has pursued the economic path of a market economy. This path has been characterised by a mixture of domestic private companies, conglomerates, multinationals, and government-owned enterprises. The size of companies has varied from small, to medium and large.
4. In the process of development, companies have merged, some have been acquired, some have operated as monopolies, others not and yet others have operated pursuant to various trade agreements.
5. Over the years we have come across complaints of predatory pricing, bid rigging, tied selling, price fixing, and complaints that smaller companies are barred from entry into certain sectors and so on. Pertinent to the present worrisome COVID 19 environment are issues of price gouging, supply chain disruptions, hoarding, shortages, competition or lack thereof among some businesses and unfairness. The Fair Trading Act is expected to bring some measure of order to the business environment which in turn is expected to be of benefit to both businesses and consumers.
6. The need for regulation of any economy is well accepted in Trinidad and Tobago and globally. Successive governments have sought to monitor and regulate the operations of several sectors of the economy through the establishment of several regulatory bodies. These include the Central Bank Act of 1964 followed by other pieces of financial legislation, the Trinidad and Tobago Securities and Exchange Commission which was established by the Securities Industries Act in 1995, the Regulated Industries Commission whose powers and functions are set out in the Regulated Industries Act of 1998, the Telecommunications Authority of Trinidad and Tobago which was established in 2004 by the Telecommunications Act and the Fair Trading Act itself of 2006 which gave rise to the establishment of the Fair Trading Commission in 2014. Let's not forget the Protection Against Unfair Competition Act 1996. It is to be noted that the establishment of regulatory

bodies to oversee and regulate the operations of companies in various sectors is common across market and even non-market economies.

7. Fair competition is an integral part of a sustainable market economy and competition is expected to ensure that companies are efficient and innovative as it is from these attributes that they derive much of their strength. The best companies usually survive and are unafraid of new entrants that enter the market fairly. They are profitable but not artificially propped up and are not holding other companies or the consumer to ransom because of their size in the market or some other unfair advantage. If companies compete fairly then consumers will benefit from a wider range of choices in products and services at competitive prices.
8. Those of you in the private sector would be pleased to know that the Fair Trading Act applies to all businesses – privately owned and government owned commercial enterprises. This is a positive development in that government-owned enterprises must understand that they must compete fairly with privately owned ones thereby ensuring that they are efficient and well run. Governments usually have more on their plates than they can handle. If a government wants private sector companies to employ people, pay taxes and such, then it must ensure that it does not have inefficient state-owned enterprises competing unfairly or unnecessarily with private sector companies.
9. Apart from the economic benefits, competitive companies can have a positive social impact as well. An economy which promotes the freedom of entry of new companies or which allows and encourages small businesses to become large is likely to promote a more inclusive business community and society. And an economy which gives the consumer a wider choice in goods and services at competitive prices is likely to have a positive effect on household income, the goodwill of consumers and by extension of the society.
10. The intention of the TTFTC is to help to ensure that new businesses would be established and existing ones would grow in a pro-competitive manner. In this way the economy would flourish and Trinidad and Tobago would be well on a path to sustainable development. We at the Commission believe

that if mergers, acquisitions, monopolies and other business arrangements are not anti-competitive and instead bring net benefits to the business community and consumers then we would have fulfilled our role.