



## **Competition issues regarding the sale of Jamaica Lottery Limited share holding to Supreme Ventures Limited: Opinion from the Fair Trading Commission**

**May 30, 2003**

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### **1. Introduction**

- 1.1 On February 25, 2003, the Fair Trading Commission (FTC) received a letter of even date from the Betting, Gaming and Lotteries Commission (BGLC) regarding the implication of the sale of Jamaica Lottery Company (JLC) and/or its holding company to Supreme Ventures Limited (SVL).
- 1.2 The BGLC sought the FTC's opinion on whether the sale would constitute a breach of the Fair Competition Act (FCA).
- 1.3 The BGLC in said letter informed that the JLC consists of two companies namely the Jamaica Lottery Holdings Limited and the Jamaica Lottery Company Limited. The BGLC has granted licences to four companies to conduct lottery games in Jamaica.
- 1.4 The companies along with the games conducted are as follows:-
  - Telefun International Limited—operation suspended
  - Jamaica Lottery Holdings Limited—*National lotto*
  - Jamaica Lottery Company Limited—*Instant and Pick 3*
  - Supreme Ventures Limited—*Cash Pot, Lucky 5 and Dollaz*

### **2. Application of the Fair Competition Act**

- 2.1 The FCA does not cover mergers or acquisitions. Most of the competition offences under the FCA may be examined under Sections 17 and 20 which respectively relate to agreements having as their objective or effect the substantial lessening of competition and the abuse of dominance. While mergers and acquisitions appear to be examinable under the section of the FCA which deals with agreements, the Act as a whole does not embrace merger control regulations.

There are no principles for merger notification and review built into the competition laws of Jamaica.

- 2.2 The control of mergers is a specific area of competition law and is primarily concerned with the regulation of the degree of concentration of an industry or the competitive structure of an industry. In general a highly concentrated industry is likely to be less competitive than one which is less concentrated.
- 2.3 The provisions in the FCA deal more with the conduct of firms within a market than with the structure of the industry. Hence the Act does not prohibit two firms from becoming one; however it prohibits that one firm from abusing its dominant position, if in fact the merger results in it being dominant.

### **3. Why regulate mergers?**

- 3.1 Some mergers may be beneficial to society while some may not be. For this reason competition agencies (which are mandated to regulate mergers) apply careful analysis of proposed mergers with the aim of determining the likely impact of the merger on the market of the relevant jurisdiction.
- 3.2 One argument in support of mergers is that they result in improved economic efficiency and one argument against mergers is that they result in a reduction in competition. This reduction in competition may result in, among other things, increased prices, reduction in quality of goods/services and reduction in the variety of goods/services available to consumers.

### **4. Summary**

- 4.1 Merger regulation, while being a specific area of competition law is not included in the Jamaican competition law. As a consequence the FTC is not empowered to investigate mergers under the FCA; therefore even if a proposed merger were likely to result in a substantial reduction in competition, it could not be investigated under the FCA.