

MULTILATERAL INVESTMENT FUND PROJECT ABSTRACT

JAMAICA

I. BASIC PROJECT DATA

Country:	Jamaica		
Program Name/Number:	Strengthening the Jamaica Fair Trading Commission / JA-M1002		
Team Leader / Members:	Frank Nieder (RE3/FI3) Team Leader; Winsome Leslie (MIF/PPU); Juvenal Meza (MIF/DEU); and Oscar Spencer (COF/CJA); Bernadette Buchsbaum (LEG)		
Date of Request:	November 21, 2003		
Beneficiaries:	Jamaican consumers and private sector.		
Executing Agency:	The Jamaica Fair Trading Commission (JFTC)		
Financing Plan:	MIF: (Facility I)	US\$	300,000
	Local:	US\$	130,000
	Total:	US\$	430,000
Tentative Dates:	EVP: October 2004		

II. BACKGROUND AND PROBLEM STATEMENT

A. Background

- 2.1 Competition policy has become increasingly important issue for Jamaica as it moves towards a fully liberalized market economy. The privatization of state entities, the liberalization of previously monopolized sectors and the reduction in trade barriers are all facets of this evolution. In all of this, competition is critical. It lies at the heart of any successful market economy and is crucial to the protection of consumers' interests and the efficient allocation of resources. Additionally, competition is now an integral part of trade policy.
- 2.2 Jamaica's Fair Trading Commission (JFTC) was established in 1993 under the Fair Competition Act (FCA). The Act provides for protection against anti-competitive practices as well as for specified types of consumer affairs protection. With regard to the former, the Act prohibits agreements that substantially lessen competition and the abuse of a dominant position. In terms of consumer affairs protection, the Act speaks to matters such as misleading advertising, sale above advertised price and double ticketing. Essentially, the objective of the Act is to ensure that the benefits of the competition process in Jamaica are unhindered by anti-competitive activity.

B. The problem

- 2.3 The ability of the FTC to carry out investigations thoroughly and efficiently has been constrained by lack of technical expertise. Recently the FTC has been devoting increasing amounts of time and resources to competition matters. The liberalization of the telecommunications market, in particular, has increased the need for FTC actions. The FTC has complementary responsibility with the Office of Utilities Regulation (OUR) for ensuring fair competition, and increasing public awareness about the role of competition in the telecommunications sector. The complaints about anti-competitive behavior in the sector have been numerous.

C. Program rationale and additionality

- 2.4 This project is a high priority for the Government of Jamaica, which has committed in writing to provide counterpart funds for the operation, even in the face of a tight fiscal situation. The proposed project falls directly within the scope of MIF's mandate, which includes support to improve market functioning, more specifically, competition and consumer protection. The proposed project will complement two Bank operations: the Information and Communications Technology Project (JA-0116) and the recent PRI investment in Oceanic Cellular, one of the new companies now operating in Jamaica as a result of liberalization in the telecommunications sector. Additionally, this project complements a planned operation on telecommunications regulation, presently in the pipeline.

III. PROGRAM OBJECTIVES AND DESCRIPTION

A. Objective

- 3.1 The **goal** of the Project is to enhance competition in the Jamaican economy. The **purposes of the project** are: a) to strengthen the capacity of the JFTC to be an effective enforcer of competition policy in Jamaica; b) to better inform economic actors about the criteria and enforcement mechanisms of competition policy; and c) to communicate the importance of competitive markets to the public at large. The proposed project will contribute to the above objectives by improving the technical capacity of the JFTC, its outreach efforts and knowledge management..

B. Description

- 3.2 The Project has two components.

Component I: Technical Assistance and Training (Total: US\$282,750; MIF US\$194,250; GOJ US\$88,500)

- 3.3 This component will provide specialized technical assistance, as well as "class-room" and on-the job training to the JFTC in order to increase technical expertise in the area of competition policy and industrial economics in Jamaica. The project will fund consulting expertise by advisors who will each visit Jamaica once a year

during a three-year period to provide assistance on difficult competition cases, as well as on-the-job training to JFTC staff. These consultants will also provide continuing support by telephone and through the Internet and/or videoconferences.

- 3.4 The consultants will also conduct structured training sessions in competition policy issues to the JFTC staff, as well as to members of the legal profession in Jamaica (including lawyers, judges, academics and staff of other GOG agencies such as the OUR). The Project will finance two or more courses in Jamaica, which will teach the participants the fundamentals of investigation and analysis of competition issues. JFTC staff attendance at a number of key international courses in competition law and intellectual property will also be funded.

Component II: Knowledge Management and Outreach (Total US\$147,250; MIF US\$105,750; GOJ US\$41,500)

- 3.5 This component seeks to improve information flows both within the JFTC itself and with the general public. It will consist of knowledge management activities as well as the design and implementation of an awareness-raising and outreach plan to educate the business and relevant professional communities about competition policy and its enforcement mechanisms.
- 3.6 It will involve the improvement and maintenance of the Commission's Workflow Management System, the upgrading of the Commission's website and the installation of video-conferencing equipment and a multimedia projector, to allow for interactive sessions and graphics presentations. This component will also support the acquisition of materials for the JFTC library.
- 3.7 The project will also design and implement a three-year outreach programme designed to educate the business community about competition legislation – its implications for businesses, its underlying rationale and its potential benefit to the community at large. Public awareness-building is important to ensure that economic actors understand their legal responsibilities to avoid anti-competitive behavior, and to facilitate the JFTC's capacities for consultation with the stakeholders. Also, once a negotiating position has been taken, the relevant stakeholders must be made aware of what that position is, as well as its benefits. This communication program could include a campaign to disseminate information about communication policy in the media, preparation of informational material, as well as an annual seminar directed at both the private sector and civil society, timed to coincide with the visits of the training consultants so as to facilitate their participation.
- 3.8 The project will have an execution period of 36 months, with a disbursement period of 42 months, effective from the date of signature of the agreement. Expected outcomes include: a) an increase in the technical capacity of the JFTC; b) an improvement in the methods and procedures in investigations into anti-

competitive practices; and c) an increase in the awareness of competition issues amongst civil society.

IV. COST AND FINANCING

- 4.1 Total project costs have been estimated at US\$430,000, of which US\$300,000 will be funded by the MIF. Counterpart resources of US\$130,000 will be provided by the JFTC.

V. EXECUTING AGENCY AND EXECUTION STRUCTURE

- 5.1 The JFTC will be the Executing Agency for the project and host the Executing Unit. The Executing Unit will be run by a Project Manager, who will be supervised by the General Manager of the JFTC. Administrative and Accounting support to the Unit will be provided by the existing staff of the JFTC. The JFTC has had experience working with other donors. USAID provided assistance for the establishment of the organization and the drafting of the FCA. It also provided subsequent assistance for the development of JFTC's database management system.

VI. ENVIRONMENTAL AND SOCIAL IMPACT

- 6.1 The present operation does not have any direct environmental effects, because the focus of the program is technical assistance, training and knowledge management. The promotion of competition and the constraining of monopolistic practices are expected to benefit micro enterprises and SMEs, and this in turn will have a positive social impact.

VII. MAJOR ISSUES

- 7.1 **Legislation.** The FCA empowers to JFTC to investigate cases of unfair competition, as well as adjudicate these cases. Additionally, the current law does not make a clear distinction between the functions of the "Commission" versus the "Authority". This blurring of the distinction has been challenged in the Jamaican courts, and as a result the Minister of Commerce, Science and Technology will be submitting an amendment to the Act to the Cabinet shortly.
- 7.2 **Project Execution.** One of the challenges with MIF projects in Jamaica is the slow pace of project execution. In the analysis phase every effort will be made to mitigate these difficulties to ensure that project implementation proceeds smoothly.
- 7.3 **Project Sustainability.** It is critical that project results be sustainable after MIF funding ends. During project preparation, the team will identify particular measures, which can strengthen sustainability.

VIII. ACTION PLAN

- 8.1 It is expected that the Abstract would be approved in August 2004, that the Analysis Mission would take place in September and that the Donor's Memorandum would be submitted to the Donors in November 2004.

September 15th, 2004