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| **ANNUAL REPORT Competition and Consumer Affairs Commission for 2012** |
| For the period January 2012 through January 16th, 2013 |
| Seema Rambaran, Director |

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# STAFF RECRUITMENT

The Competition and Consumer Affairs Commission has been successful in staffing its Secretariat with highly qualified technical staff. During 2012 the Secretariat recruited a Legal Officer, Economist and Financial Officer, the latter two officers replacing officers that previously held such positions.

# COMMISSIONERS

According to the Competition and Fair Trading Act, 2006 (CFTA) and the Consumer Affairs Act, 2011 (CAA) the Minister is to appoint five (5) Commissioners.

Currently, there are four (4) Commissioners appointed to the Commission. Each Commissioner receives an Honorarium.

The Minister is in the process of having the Commissioners re-appointed and a fifth Commissioner appointed.

# CART FUND

In January 2010, the National Competitiveness Strategy Unit (NCSU) applied for and received grant financing from the CDB-administered CARTFund to establish and operationalize the Secretariat of the CCAC. Among other things, the Grant funds are to be used to engage consultants to provide technical assistance and training for the Secretariat of the Commission and Commissioners. The total funding available for project activities under this Grant is **US$ 746,225.**

In January 2012, the Government of Guyana applied to the CDB for an extension of the project execution period given that the current deadline was February 2012 and that most of the project activities had not yet commenced. An extension until **August 31st 2013** was subsequently granted by way of letter to the Hon. Minister of Finance dated January 27th 2012.

# TECHNICAL ASSISTANCE FOR THE CCAC

A major component under the Project is for the local staff of Commission to benefit from training and capacity building by foreign experts in the fields of both competition policy and consumer affairs.

Following consultations with the CDB, **it was agreed that the local senior staff would be supported by the following foreign consultant positions**:

1. Lead Technical Adviser
2. Competition Policy Adviser
3. Consumer Affairs Adviser

These positions would be paired with their respective local counterpart for the purposes of training and mentoring. It is expected that these consultants will provide their services in the form of short term consultancies over an intermittent period. These positions will be funded with proceeds from the CART Grant. These positions were advertised internationally and applications closed on **July 1st 2011.** Following an evaluation by the NCSU and the CDB, **Ms. K.L Menns** (a Jamaican national) was recruited to work as the **Competition Policy Adviser**. The CDB granted its “No Objection” to the hiring of Menns, her Work Plan and the draft contract in November 2011. The total contract price will be **USD** **$204,717** inclusive of air travel and per diem for days spent in Guyana. Ms. Menns signed her contract on February 8th 2012 and began execution of her work plan on March 1st 2012. She completed her first mission to Guyana from April 9th – 20th 2012. She completed her second mission from August 15-28, 2012. She was expected to return to Guyana on December 2nd, 2012 and stay until December 13th, 2012, however given minor setbacks in the schedule, Menns’ next mission will take place from January 17th through 28, 2013.

Following evaluations for the position of Lead Technical Advisor (LTA), no suitable candidate was found. However, Mr. Massimiliano Gangi, an Italian National, was found to be a suitable candidate for the Consumer Affairs Advisor (CAA) position. It was also noted that Mr. Gangi was also suitably qualified to undertake the Lead Technical Advisor position as well. A decision was therefore taken to merge the LTA and the CAA positions into one consolidated Terms of Reference to be covered by one consultant. The CDB gave their formal “No Objection” to the merged TOR, the draft contract and the recommendation to hire Mr. Gangi on **December 6th 2011**. The NCSU has since requested formal “No Objection” from the CDB to the draft negotiated contract of **US$256,224** inclusive of air travel and per diem for days spent in Guyana. Mr. Gangi signed his contract on February 10th 2012 and began execution of his work plan on March 1st 2012. He completed his first mission in Guyana from March 26th – April 14th 2012 and his second mission from May 13th – 26th 2012. He completed his third mission from June 25 – July 6, 2012, fourth mission from September 2- September 12, 2012, fifth mission from October 29th through November 8th, 2012 and will complete his sixth mission on January 17th, 2013 (having begun on January 3rd, 2013).

# OTHER ACTIVITIES COVERED BY GRANT AGREEMENT

 In addition to the engagement of the two consultants, a number of other activities are to be undertaken under the CDB grant agreement including: (i) procurement of a vehicle, (ii) design and implementation of a database, (iii) training and development activities for the staff as well as a wide range of stakeholders and (iv) public relations activities.

(i) Procurement of a Vehicle

The CDB granted its ‘no objection’ on May 16, 2012 to commence the procurement process to acquire a reconditioned vehicle for up to USD$27,000. The Support for Competitiveness Programme assisted in developing specifications for a SUV/Sedan for the Commission. The Commission sought tenders for a vehicle in June of 2012 and received no bids. As such a Request for Quotation was sent to nine known suppliers of motor vehicles in Guyana namely: Beharry Automotive Limited, Caricom Auto Sales, Car Care Enterprise & Auto Sales, Fazela Auto Sales, Full Works Motor Spares/Auto Sales, Best Buy Auto Sales, Car Clean, El Commandante Enterprise & Auto Sales and Associated Industries Limited. Suppliers were given at least three weeks to submit a Quotation. At a Tender Opening held on September 18, 2012 at the National Procurement and Tender Administration Board (NPTAB) a bid was received from one supplier, namely Car Care Enterprise & Auto Sales.

An Evaluation Team comprising of one representative of the Support for Competitiveness Programme, one Representative of the Ministry of Finance and one representative of the National Competitiveness Strategy Unit. Based on the evaluation conducted by the team the bid submitted was found to be technically responsive with our specifications of the motor vehicle to be procured. The team recommended Car Care Enterprise & Auto Sales to supply and deliver one Toyota Mark X Motor Car. This information was sent to the CDB for their approval. Approval was received from the CDB on September 25, 2012.

The CCAC received its vehicle on October 16, 2012. It became insured late October 2012 and as such has become operational since then.

##  (ii) Design and Development of a Database

The Commission has sought the assistance of members of the Guyana Revenue Authority (GRA) IT department in developing specifications of the database it intends to develop. The Commission is awaiting a proposal from GRA representatives

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| CART FUND EXPENDITURE AS AT 31 December 2012 |  |
| Project Activity | Expenditure to Date (GYD)  |
| Consumer Affairs/ Lead Technical Advisor |  29,695,981  |
| Competition Policy Advisor |  13,692,000  |
| Procurement of Vehicle |  3,200,000  |
| Maintenance of Vehicle |  182,200  |
| Staff visits to Jamaica & Barbados Fair Trading Commission |   |
| Staff participation in regional and international workshops, courses and symposiums |  663,412  |
| Director, Legal Counsel and Economists to attend competition economics and analysis course |  434,515  |
| Legal Counsel to attend competition law course |   |
| Development of an on-going training programme on competition policy, analysis, investigations and recommendations |   |
| Undertake data and information gap analysis at a sectoral level |   |
| Conduct survey to capture missing information; synchronise with Bureau of Statistics, Bank of Guyana and CARICOM Competition Commission |   |
| Convert existing data into relevant statistics at a sectoral level |   |
| Develop methods to capture firm level sensitive information for internal use; and apply international best practice  |   |
| Develop electronic database capturing firm information and other information, such as history, for internal use |   |
| Develop information requirements and documentation framework for use in investigations |   |
| Develop regular statistics and evaluation reporting framework for use in investigations |   |
| **Total** | $44,485,908 |

# STEERING COMMITTEE

An additional requirement of the CDB grant agreement was the establishment of a Steering Committee to review the deliverables of the consultants. The first meeting of the Steering Committee was held on Wednesday June 13, 2012 in the Boardroom of the Ministry of Tourism Industry and Commerce. The TOR of the Committee was discussed along with the Work Plans of both Menns and Gangi. Presentations were also given on the work and structure of the CCAC and on the CART Fund Grant. The second meeting was held on July 4th 2012 where the June deliverables for both Ms. Menns and Mr. Gangi were presented, discussed and approved. It was also agreed that future deliverables will be presented to Steering Committee members via e-mail for review and approval, to circumvent the need for excessive meetings.

During Ms. Menns’ visit in August 2012, the Steering Committee met for a third time. Ms. Menns presented her work plan and discussed her strategy for building the capacity of the Commission and assisting with institutional building.

Mr. Gangi also met with the Steering Committee during his visit in September 2012, at which time he presented his work plan and fielded questions regarding public awareness activities that the Commission, in consultation with himself, would seek to present.

The Ministry of Legal Affairs’ representative on the Steering Committee has been changed. The former representative was Mr. Nareshwar Harnanan however he has been appointed as a Justice and as such has resigned from the Committee. The new representative is Eusi Anderson.

# RULES OF PROCEDURES

On December 6th, 2012, Honourable Minister Ali, Minister of Tourism, Industry and Commerce (ag) presented comments on the Draft Rules of Procedures for Investigating Competition Law Infringements and the Draft Regulation for Investigating Violations of the Consumer Affairs Act to the Chairman of the Project Steering Committee, Mr. Radha Krishna Sharma.

Honourable Minister Ali then sought the comments and feedback of Honourable Minister Nandlall, Minister of Legal Affairs by way of letter dated January 3rd, 2013. Attached to Minister Ali’s request for feedback were the following documents:

1. Minister Ali’s comments on both sets of draft Rules.
2. Draft Rules for Investigating Competition Law Infringements presented by K.L. Menns
3. Draft Regulation for Investigating Violations of the Consumer Affairs Act presented by Massimiliano Gangi
4. DRAFT Rules of Procedures for Investigating Competition Law Infringements drafted by the Competition and Consumer Affairs Commission

Please note number 4 above seeks to modify number 2 above without the assistance of the consultant and as such was presented to Minister Nandlall in an effort to move the finalization process along.

Minister Ali awaits the comments of Minister Nandlall.

**STAFF CAPACITY BUILDING**

| **Description of Training Session** | **Attendees** | **Month** | **Training Facilitator** |
| --- | --- | --- | --- |
| Tools of Analysis in Competition Law Cases | Staff of CCAC | April | K.L. Menns |
| Warranties | Staff of CCAC | June | Massimiliano Gangi |
| Market Definition | Staff of CCAC | June | K.L. Menns |
| Mergers and Acquisitions | Staff of CCAC | June | Massimiliano Gangi |
| Unfair Contract Terms | Staff of CCACLawyer for CCACStaff of Consumer Affairs Division (CAD) | June | Massimiliano Gangi |
| Anti-competitive Agreements | Staff of CCAC | June | K.L. Menns |
| Authorisation and Notification Regime | Staff of CCAC | June | K.L. Menns |
| United Nations Council for Trade & Development (UNCTAD) 12th Session of the Intergovernmental Group of Experts Meeting on Competition Law | Seema Rambaran, Director, CCAC | July | UNCTAD |
| Consumer Protection Regulation | Staff of CCACLawyer for CCAC | July | Massimiliano Gangi |
| Milestone Judgments in Competition Law Cases | Adrian Anamayah, CommissionerSeema Rambaran, Director | July | Small States Network |
| Rules of Procedure for Investigating Competition Law Cases | Staff of CCACCommissioners | August | K.L. Menns |
| Abuse of Dominance | Staff of CCAC | August | K.L. Menns |
| Legal Writing and Vertical Agreements | Staff of CCAC | August | K.L. Menns |
| Distribution Systems in Competition Law | Staff of CCAC | August | K.L. Menns |
| Unfair Commercial Practices | Staff of CCAC | September | Massimiliano Gangi |
| Distance Sales Contracts | Staff of CCAC | September | Massimiliano Gangi |
| Workshop on Conducting Cartel Investigations | Competition Policy Officer, Imran Khan | October | International Competition Network |
| Discussion on Consumer Safety and Recall of Goods | Staff of CCAC, Commissioners  | January | Massimiliano Gangi |
| Discussion on Misleading Advertising  | Staff of CCAC, Commissioners | January | Massimiliano Gangi |

# PUBLIC AWARENESS

Public Awareness has been presented in numerous forms in order to attract the widest audience. This has taken predominantly two forms, seminars presented for various sectors of the public and knowledge products.

## Public Awareness Seminars/Events

| **Description** | **Audience Targeted** | **Date** |
| --- | --- | --- |
| Presentation on Warranties presented twice | Cell phone suppliers/staff of Guyana National Bureau of Standards | April 2012 |
| TV Program: Guyana Today | General Public | August 2012 |
| Seminar on Goals of Competition Law and the CFTA | Businesses | August 2012 |
| Guy Expo | Businesses/Consumers | September 2012 |
| TV Program: Consumer Affairs & You | Businesses/Consumers | September 2012 |
| Seminar on the Consumer Affairs Act and What it Means for Businesses | Businesses | October 2012 |
| TV Program: The Factor | General Public | October 2012 |
| Radio Program: Let’s Gyaff | General Public | October 2012 |
| Presentation at the Berbice Chamber of Commerce | Small and Medium Sized Enterprises | October 2012 |
| Seminar, Consumer Protection in the Financial Sector | Banks/Insurance Companies | November 2012 |
| Legal Consultation on Consumer Regulation | Lawyers | November 2012 |
| Consumer Protection Seminar for the Auto Industry | Auto Suppliers and Auto Part Dealers | January 2013 |

## Knowledge Products

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| **Description** | **Audience Targeted** | **Date** |
| Over 30 newspaper articles | Consumers and Businesses | February through October 2012 |
| Article in Georgetown Chamber of Commerce’s Annual Business Magazine | Investors/Businesses | July 2012 |
| Brochure on the Competition and Consumer Affairs Commission | General Public | September 2012 |
| Four brochures on Competition and Fair Trading Act, 20061. Abuse of Dominance
2. Anti-Competitive Agreements
3. Competition Policy
4. Competition and Economic Growth
 | Businesses | September 2012 |
| Two Newsletters 1.)Bid Rigging in Public Procurement 2.) Cartels under the CFTA | Businesses | September/October 2012 |
| Two Newsletters on Consumer Protection | One for consumers and the other for suppliers | September/October 2012 |
| Bookmark on Consumer Protection | Consumers | September 2012 |

# Expected Achievements of the Competition and Consumer Affairs Commission for 2013

* Finalisation of Rules of Procedures for Investigating Competition Law Infringements and Consumer Protection Violations
* Ongoing specialized training with experts in the areas of competition law and consumer protection
* At least twelve seminars/workshops on Consumer Protection and Competition Law for stakeholders
* Ongoing collaboration with sector regulators
* Development and dissemination of a quarterly newsletter
* Participation in media programs that allow the community to speak with representatives of the Commission.
* Establishment of a database for the Commission to house all critical data collected during investigations

# Statement of audited Accounts January- December 2012

See Annex

ANNEX