

**RESPONSE FROM FICAC TO THE STANDING COMMITTEE ON JUSTICE, LAW
AND HUMAN RIGHTS**

- 1. Reference is made to Note 6 stated on page 50 of the AR 2014 and page 58 of the AR 2015, which states that the Commission is controlled by the Government. This questions the independence of the Commission. Can the Committee be provided clarification on this?**

Honorable Chair, we would like to humbly put in a correction to the Committee's issue that has been raised. Firstly, we believe that reference is made to Note 16, and rather not Note 6. Secondly, the Committee's reference is incomplete as what is written in page 50 of the AR 2014 states that the Commission is controlled by the Government of Fiji in accordance with the FICAC Promulgation (now referred to as Act).

Therefore, in answering the issue noted, Note 16 refers purely to the finances of the Commission, and has no reference whatsoever to any investigation, prosecution and corruption prevention functions. Yes, we receive our budgetary allocation from the Ministry of Economy, and as such, the Commission depends on the Government of Fiji to provide for a stipulated allocation under its Annual Budget.

- 2. As seen from the Reports, it seems that the Commission sees success as the number of cases investigated and prosecutions made. This can be attributed to the awareness programs carried out by the Commission. However are there awareness programs that are specifically aimed at preventing corruption?**

Honorable Chair, we would like to make reference to both of our AR 2014 and AR 2015. It is clearly stipulated that we have a Corruption Prevention department which is the proactive arm of the Commission, and as such, both Annual Reports articulates our programmes and initiatives that have been implemented through every level of the community in Fiji.

As such, in answering to the query raised, the Commission carries out corruption prevention functions under Sections 12(d) (e) (f) (g) (h) of the FICAC Act. In accordance to the FICAC Act, we have a number of initiatives and programmes that are designed and tailor-made that FICAC implements with relevant stakeholders. Some of these projects include corruption risk management identification through the usage of workshops and tools that are specifically designed for organizations to understand their current practices. With the identified risk areas, FICAC then goes on to instruct, advise and assist organizations in systematically rectifying risk areas in order to have clean operations that are more transparent and accountable. Another partnership is with the Ministry of Education to develop a National Anti-Corruption Curriculum (NACC) for primary and secondary schools in Fiji. The school curriculum definitely serves as a contrivance to integrate and implement anti-corruption concepts and ideas. FICAC is

introducing the concept of the Corporate Integrity Pledge (CIP) with private companies for the purposes of upholding the anti-corruption principles. Whilst signing the Pledge, the company adopts the anti-corruption principles. FICAC also has designed awareness, education and media programmes that filter information for knowledge empowerment to the grassroots level.

3. With regards to the awareness programs implemented, can the Commission provide a detailed report on these awareness programs and its effectiveness?

Honorable Chair, in answering the query raised, we would like to refer the Committee to pages 23 – 26 of the AR 2014, and pages 24 – 29 of the AR 2015 which clearly outlines the corruption prevention programmes and the results the Commission has achieved. The effectiveness of our programmes is gauged through the substantial increase in the number of programmes that were carried out in 2015 in comparison with 2014. It is also to be noted that this increase came through with more requests received from stakeholders for corruption prevention programmes.

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4. Issue with the process of investigations; specifically with regards to how complaints are processed. Can the Commission provide the Committee details of how complaints are processed and the timeframe given for disposing a case?

Honorable Chair, the Commission's complaint process is as follows:-

- All complaints received by the Complaints department are registered in the CMS (case management system).
- Mode of receiving complaint: In person, Toll free, Landline, Letters, Info account (Emails).
- Matters within FICAC's jurisdiction (corruption related) are referred to the Legal Assessment Unit.
- The Unit comprise of Lawyers who determine how each complaint should proceed.
- Complaints considered outside the boundaries of FICAC's jurisdiction are referred to the relevant authority. Complainants are advised accordingly.
- Under section 9 of the Bribery Act, the Commission has the power to deal with private sector corruption.
- The Commission's priority is to deal with public sector corruption, however, most times; we look at public and private sector corruption tandemly.

The time-frame for disposing any case is case sensitive. A major case with big paper trail takes time, whilst small straight forward cases may conclude in a short period. Cases pending in court are beyond our control and are up to the jurisdiction of the court.

5. How does the Commission determine whether cases are to be:

- (a) investigated; or
(b) to be referred back to the complainant to seek own legal counsel; or
(c) to other stakeholders or the Police?

Honorable Chair, cases for investigation are corrupt related cases. Cases of criminal nature are referred to the Police, whilst non corrupt related cases are referred to the relevant stakeholders for further action, and on civil matters, the complainants are advised to seek private legal assistance.

6. With regards to investigation of cases; what would be the basis for referring cases back to the Ministry where it originated from?

Honorable Chair, cases are referred back to the Ministry if the case is not corrupt related and/or if the case is not within our jurisdiction. In this regard, the case is referred to the Ministry for their internal further action.

7. Could the Committee be provided a detailed list of Ministries that have been referred cases back?

Honorable Chair, we are unable to divulge any details on investigations that would be against our Bribery Act. It is unlawful for the Commission to divulge on the details of pending matters for investigation.

8. Is there a provision in the FICAC policy/structure that ensures the protection of whistleblowers?

Honorable Chair, the Commission has a Protection of Informants provision under section 30A of our Bribery Act.

9. With reference to the cases being investigated by the Commission (page 20 of the AR 2014) how many cases on cyber-crime and money laundering have FICAC investigated to date?

Honorable Chair, our interpretation of cyber-crime is criminal activities carried out by means of computers or the Internet. We do investigate cyber-crime if it is related to corruption related offences. Until June 2016, the Commission had no jurisdiction to investigate and prosecute money laundering offences. With the new amendments to our laws, the Commission now has powers to investigate and prosecute on money-laundering under the Proceeds of Crime (Amendment) Act 2004.

10. With reference to page 20 of the AR 2014, can the Commission provide detailed cases on assets confiscated under the *Proceeds of Crime (Amendment) Act 2004*?

Honorable Chair, currently, there is one case pending in court. Total assets are worth \$2.2Million. This is the case of FICAC v FIROZ JAN MOH'D & 3 OTHERS.

11. What is total number of staff and is it sufficient for the Commission to efficiently carry out its work/functions?

Enoch Legal
ppt
10-12 lawyers

Honorable Chair, total staffs is just over 150. The Commission feels in accordance to the population of Fiji and the capacity of the public sector, the numbers that are currently employed by the Commission is sufficient in carrying out its duties in order to serve everyone.

12. Why are there a high number of staff turnovers?

Honorable Chair, the Commission does not have a very high number of staff turnovers. Most resignations that have happened were of staffs migrating to overseas countries; or termination of staffs due to any disciplinary action or breach of code of conduct.

13. With regards to grants (page 51 – Note 18); there seems to be confusion on what can be considered as Small and Medium-sized Entities (SME's). The Company Act stipulates that SME's are those that have a turnover of less than or equal to \$5M (FJD), however the FICAC's turnover, is more than \$8M (FJD). Can the Commission provide clarification on this?

Honorable Chair, we humbly seek the approval of the Committee to be given time in order to give a written submission for the issue raised as we had just received the questions and issues at 10.26am this morning.

14. With regards to the financial statements; there seems to be some discrepancies in some of the accounts. Can the Commission provide clarification on these discrepancies, which are stated below?

in the closing account at the end of the year 2014 – Statement of Financial Position as at 31 December 2014 for 'Non-Current Assets'. Figures stated in this account do not match the 2014 restated account stated in the 2015 AR (Page 56-57 – Notes 9 and 10 of the Report).

with regards to the 'Net Assets' for 2014 (page 40 of the 2014 AR), the figures does not match the restated amount as stated in the 2015 AR (page 47). Is the amount stated in the 2015 AR been overstated?

with reference to note 5, page 47 of the 2014 AR on the 'Other expenses' account, with regards to 'Depreciation', the amount stated (\$563, 669) does not match the amount (\$758, 501) stated in the 2015 AR (page 55). Can the Commission provide clarification on this?

Honorable Chair, we humbly seek the approval of the Committee to be given time in order to give a written submission for these issues raised as we had just received the questions and issues at 10.26am this morning.

15. FICAC is using semi accrual accounting and cash-basis accounting, whereby overdraft doesn't reflect the prudence. Can the Commission provide an explanation on this?

Honorable Chair, we humbly seek the approval of the Committee to be given time in order to give a written submission for the issue raised as we had just received the questions and issues at 10.26am this morning.