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## STANDING COMMITTEE ON ECONOMIC AFFAIRS

### Consolidated Report on Fiji Commerce Commission 2014 and 2015 Annual Reports



**PARLIAMENT OF THE REPUBLIC OF FIJI**  
**Parliamentary Paper No.72 of 2018**

*May 2018*

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## Chair's Foreword

The Standing Committee on Economic Affairs was tasked with scrutinising the Fiji Commerce Commission (Commission or FCC) 2014 and 2015 Annual Reports. Upon deliberations and discussions with the FCC, and given the time that has lapsed, the Committee chose to put forward a consolidated report as follows.

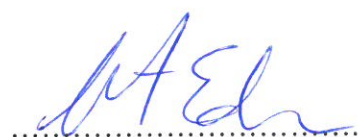
The Committee was confident that the FCC was well positioned to continue to play its role and accomplish its mission, which is to foster a competitive, efficient, fair and informed marketplace, to enhance the welfare of all Fijians.

In 2014 the Commission received 882 fair trade related complaints while only 384 were recorded in 2015. This increase in compliance was a clear indication that the Commission continues to strive towards efficient and effective practices. This was also a testament of the Commission's efforts to invest in the way they engaged with their stakeholders through outreach programmes such as radio talkback shows, education programmes in schools and print media.

The Committee noted that resolving anti-competitive conduct can be very complex, particularly when dealing with monopolies. The Committee recommended that the FCC continue to develop its network with independent stakeholders such as the Asian Development Bank (ADB), World Bank and International Monetary Fund (IMF) to assist the Commission in these areas.

I thank the Committee Members, Hon. Vijay Nath, Hon. Alvick Maharaj, Hon. Viliame Gavoka and Hon. Prem Singh who were present in the production of this Report and also the Parliamentary Staff who assisted.

On behalf of the Standing Committee on Economic Affairs, I commend this Report to Parliament.

A handwritten signature in blue ink, appearing to read 'L. Eden', is written over a dotted line.

**HON. LORNA EDEN**  
**CHAIRPERSON**

## **Introduction**

The Fiji Commerce Commission, now known as Fijian Competition and Consumer Commission (Commission or FCC) is an independent statutory body which was established under section 7 of what is now the Fijian Competition and Consumer Commission Act 2010 (Act). The purpose of the Commission is to ensure the integrated framework for the regulation of monopoly market structures, encourage competition, prevent restrictive trade practices, ensure consumer protection and undertake pricing of public utilities and other price controlled items.

The Commission believes that competition rewards good performance, encourages entrepreneurial activity, catalyses entry of new firms and ensures better product quality at cheaper prices. Its aim is to ensure delivery of benefits of a competitive regime in Fiji, with great efficiency. The Commission is strongly of the view that prevention of a breach of the Act is always preferable to taking action after a breach has occurred therefore it is imperative for businesses and consumers to be fully aware of their rights and responsibilities stipulated under the Act.

The Commission continues to work with the mission to enhance the welfare of the people of Fiji by fostering a competitive, efficient, fair and informed marketplace.



## List of Recommendations

1. The Committee notes that competition is fundamental in any economy and that consumers need to be confident that they are accurately informed and understand the prices they pay. The Committee is also aware that the role of the FCC needs to be clearly understood by the general public. Further the Committee feels that there should be a clear demarcation of the FCC's roles compared to agencies such as the Consumer Council of Fiji, Fiji Intelligence Unit and others. The Committee recommends that the FCC continues to strengthen the development of their communication strategy to effectively convey their role to consumers.
2. The Committee notes that reassessment of all residential rent and ground rent has been frozen since 2007. This is in line with part of an initiative to make housing affordable. The Committee also notes that the freeze has sometimes led to neglect of up-keep of properties. The Committee recommends that refurbished housing be given some lee-way through the rent mechanism process.
3. The Committee notes that the nature of work required calls for a high degree of specialisation which behoves the FCC to attract and retain the best possible workforce. The Committee also notes that remuneration packages have been aligned to the private sector through an assessment conducted by an independent consultant. The Committee recommends that such reviews be ongoing to ensure we retain the best possible staff for the FCC.
4. The Committee notes that resolving anti-competitive conduct can be very complex, particularly when dealing with monopolies. The Committee recommends that the FCC develop its network with independent stakeholders such as the ADB, World Bank and IMF to assist in these areas.

## **Gender Analysis**

Gender is a critical dimension to parliamentary scrutiny. Under Standing Order 110 (2) the Committee is required to ensure full consideration to the principle of gender equality so as to ensure all matters are considered with regard to the impact and benefit on both men and women equally.

Taking into consideration the principle of gender equality, the Committee noted that there was satisfactory gender balance prevalent amongst the senior management staff of the FCC in 2014 and 2015. In 2014, it can be noted that of the six (6) staff that make up the senior management staff, only one (1) was a female. In 2015, out of the seven (7) staff that make up the senior management staff, there were two (2) females.

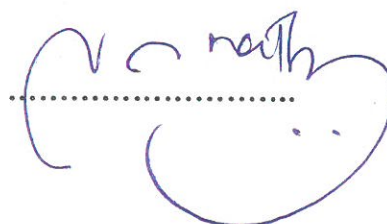
## **Conclusion**

To conclude, the Committee feels that the consolidation of the roles has been effective and that the FCC is poised to continue to play its role and accomplish its mission which is to foster a competitive, efficient, fair and informed marketplace to enhance the welfare of all Fijians.

**Hon. Lorna Eden (Chair)**

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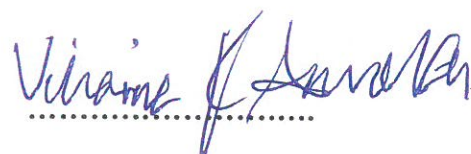
**Hon. Vijay Nath (Deputy Chair)**

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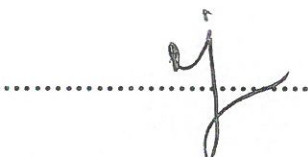
**Hon. Alvick Maharaj (Member)**

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**Hon. Viliame Gavoka (Member)**

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**Hon. Prem Singh (Member)**

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# APPENDIX 1

# SUBMISSION

# (FCCC)

30 April 2018

Hon. Lorna Eden  
Chairperson  
The Standing Committee on Economic Affairs  
Government Buildings  
SUVA

Dear Madam

**Re: Fiji Commerce Commission Annual Reports 2014 and 2015**

Greetings from the Fijian Competition and Consumer Commission (FCCC)!

1. How proactive was FCC in regulating Anti-Dumping Laws to protect Industries like PAFCO?  
FCCC objectives apart from promoting consumer interests, ensuring effective and efficient development of competition, industry, trade and commerce it is also mandated by law to facilitate an approximate balance between efficiency and environmental and social considerations which is provided for pursuant to Section 2 (2) of the FCCC Act 2010.

FCC was proactive in regulating Anti-Dumping Laws by entering into a Memorandum of Understanding (MOU) in 2014 with the then Fiji Inland Revenue and Customs Authority (FRCA) now known as Fiji Revenue and Customs Services (FRCS) to ensure market surveillance, approve commodities / goods to be monitored under the price surveillance scheme, recommend revisions or amendments to relevant laws to improve effectiveness of price surveillance work, safeguard consumer interests and ensure fair play in the market.

Initially the Dumping and Countervailing Duties Act was administered by Ministry of Industry, Trade and Tourism but this was transferred to FRCS. Therefore, when FRCS had to consider legislative changes to Anti-Dumping laws FCC did make recommendations to ensure that there is a balance between industry, trade and commerce and the environment. By entering into an MOU not only assists to facilitate the monitoring partnership with FRCS but to also ensure that proper recommendations and amendments are made to the laws to improve effectiveness and compliance. As such, FCCC did play a vital role in assisting the regulation of anti-dumping laws.

2. On page 14 of 2014 Report, the E-ticketing Service for Fiji's Bus Industry was meant to begin operation in 2013 but did not happen until 2017. What can we learn from this experience?

#### **A. Lessons Learnt**

Such initiatives require collaboration from both the public and private sector to enable successful implementation of the system to deliver benefits. The Government has introduced a number of new measures to support and modernise the bus industry and promote long term investment in public transportation and it becomes necessary that all parties comply to the requirements.

Competition Law in any country applies as much to the Public Sector as it does to the private sector and thus stakeholders must be mindful of its policy decisions and analyse it to ensure it is not in breach of any law that it has created. With the implementation of the E-Ticketing system, benefits have been realised in ensuring transparency in revenue reporting by bus operators as well as preventing revenue leakage in the bus industry as well as convenience to consumers.

3. There is a perception that Fiji is over Regulated and in some quarters the belief is that we must go on laissez-faire. In your opinion has Regulation delivered, in terms of Price Stability?

Frequent changes in individual prices of goods/services are quite normal in market-based economies, even if there is price stability overall. The changes in supply and / or demand conditions of individual goods or services inevitably lead to changes in their price. For example, in recent years we have seen substantial declines in the prices of computers and mobile phones, mainly resulting from rapid technological progress. However, oil and other energy prices fluctuated, partly as a result of concerns regarding the future supply of energy and partly as a result of increased demand for energy, in particular from fast-growing economies.

In theory, any market is regulated due to the existence of market failure. In Fiji, there exists monopolies in the market where a firm controls the market and set higher prices. In ensuring that regulation has delivered its objectives, it is best to consider the following indicators;

- It has reduced uncertainty about general price developments and thereby improve the transparency of relative prices- It has made it easier for people to identify changes in the prices of regulated goods expressed in terms of other goods,
- Certainty amongst businesses – traders can plan on their consumption of fuel and their spending attributed to petroleum product consumption. That is better manage its cash flow.
- Certainty amongst the general public – people can budget and make better informed consumption.

4. What role did FCC play in the recent review of the Port charges as a Regulator?

#### **A. FCCC Role**

Under the FCCC's Strategic Goal 3, FCCC is to ensure price regulation of regulated entities is economically justified and applied in an efficient manner. In recognition of this, FCCC's function to consider price submissions for review with particular regard to the following:

- i. The need to maintain investment and employment, including the influence of profitability on investment;
- ii. The need to discourage a person who is in a position to substantially influence a market for goods or services from taking advantage of that power in setting prices; and
- iii. The need to discourage unreasonable cost increases arising from inefficiencies (if any) has built up in the various stages of process or operations.

The purpose of regulation of Port Services is entrusted to FCCC is to ensure that critical and essential monopoly institutions product price is pegged at a level which would closely resemble the price which would prevail should there be a competitive market. To minimise the potential misuse by Ports of their market power, the capacity for ports to provide services below community expectations or to neglect the maintenance of essential national infrastructure, a degree of regulation is required.

5. On page 13 of the 2015 Report, there is talk about a 'basic food item price review', do you also consider the content of the product? i.e. canned tuna from Thailand retailing in Fiji for \$0.99 which is lower than the production cost of locally produced tuna.

FCCC however has provisions under the law to look into competition concerns, one being the conduct of traders in the provision of goods and services. As part of FCCC's competition assessment and market surveillance, quality of products particularly inferior/sub-standard products, including expired products has been an issue for consumer protection. The FCCC has actively worked in co-operation with the Department of Standards under the Ministry of Industry, Trade and Tourism as well as the Ministry of Health to look into such matters. Whilst noting that imported products may be cheaper, other factors one being quality, influences the prices.

6. On page 24 of the 2015 Report, under CCD 2010 Rent Freeze, we understand that Residential Rent is frozen. How is the Freeze applied to Ground Rent?

Rent control is a form of government intervention to regularize the imperfection of our housing market. Housing, being one of our basic human rights, will continue to receive government's attention as part of its social responsibility and in compliance with international conventions in which Fiji is a party to. Rents controlled by the Commission include residential and ground rent governed under CCD 2010 now known as the FCCC Act 2010.

In Fiji, access to affordable housing has become more and more challenging over the years, and with the various related constraints attached to housing, regulation is necessary to protect vulnerable consumers against negative exploitation. Motives of Rent control have significantly changed since its inception in the early seventies. Traditionally the objective of imposing rent controls was based on its inflationary impact. However, rent controls in Fiji now serves broader functions including consumer protection in the absence of adequate landlords and tenants legislations and ensuring that prices of rent are affordable to ordinary tenants.

The existing Rent freeze first came into force on 2 March 2007 in response to the global financial crisis of 2007-2008, which saw government also imposing of a wage freeze.

The Commerce Commission (Rent Increase Restriction on Residential and Ground Rent) Order applies to letting and continued letting of premises under residential tenancy including



ground rentals. Section 46 of the FCCC Act 2010 provides for those tenancy which are excluded from the Freeze. This include native land lease or license granted by iTLTB, those under the Banaban Lands Act, agricultural land under the Agricultural Landlord and Tenant Act and those under the Rotuman Lands Act.

The Commerce Commission (Rent Increase Restriction on Residential and Ground Rent) Order applies to ground rent such as Housing Authority leases. Housing Authority as a landlord cannot increase ground rent since the inception of the Rent Freeze order. FCCC has received applications from Housing Authority for an increase however given the objective to accord vulnerable consumers access to affordable housing, ground rent still requires regulation. The current Order expires on 31 December 2018.

Annexure 1 – Rent Freeze Order

Annexure – Section 46 of FCCC Act 2010

7. On Fair Trade cases you have highlighted a number of Consumer complaints; what is the experience so far? Is the number of scams increasing or has it decreased?

**Table 1: Data for Consumer Complaints**

Divisions	2010	2011	2012	2013	2014	2015	2016	2017
Northern	-	52	56	173	145	149	40	116
Western	-	12	63	88	60	52	103	139
Central	140	304	449	458	656	183	236	185
TOTAL	140	368	568	719	861	384	379	440

Source: FCCC

Table 1 above shows that in between 2012 to 2014 the Central Division registered a high number of complaints which could have been due to the sudden rise in number in between 2012-2014 were because of the cases received against Pink Window Creations and Mukesh Naidu. Both these traders failed to supply as ordered. FCC has also been raising awareness and informing the public to contact FCC if there was an issue or if they were treated unfairly, hence, the number of complaints rose rapidly as seen in the table below which shows 656 complaints for Central Division in 2014. The number of complaints dropped in 2015-2016, this could be due to the compliance of the traders or wary of the enforcement actions taken by FCC.

*Blend scams  
online scams* | *Post 2015-initiatv  
scams have reduced*

Although the aggregate monetary value for previous years were not captured FCCC kindly presents the total monetary value for the year 2016 and 2017 in Table 2 below. A comparison clearly shows an increase in value from the year 2016 to 2017.

**Table 2: Annual Monetary Value Data**

<b>Monetary value of complaints</b>	<b>2016</b>	<b>2017</b>
<b>Total Complaints</b>	379	440
<b>Resolved via mediation</b>	345	396
<b>FJ (\$)</b>	\$5,033,671.06	\$6,084,960.15

**Source: FCCC**

Table 2 also shows the successful completion rate in resolving complaints in the 2016 and 2017 which was about 91%.

In 2017 the name was changed from Fiji Commerce Commission to Fijian Competition & Consumer Commission. In the new structure the Fair Trade Department was changed to Competition and Compliance Department which not only focuses on receiving and investigating complaints, but it also looks at competition issues.

The vision of FCCC is to create a dynamic and competitive market in Fiji. FCCC investigates competition issues as outlined in Part 3, 4 & 6 of FCCC Act 2010 such as anti-competitive conducts, misuse of market powers, access agreements, unfair trade practices and facilitates mergers and acquisitions as per section 72 of FCCC Act 2010 ensuring that competition is sustained in the Fijian Market.

Table 3 below shows the number of Travel Agent cases which was received by Fijian Competition & Consumer Commission formerly known as Fiji Commerce Commission (FCC) between 2014 and 2016. The stats indicate that 34 cases were registered with FCC out of which 10 were mediated and resolved and 24 cases are currently in Court for legal action.

**Table 3: Summary of Complaints received by FCCC against Travel Agents (2014 - 2016)**

Travel Agent Name	No of Complaints Received	Amount Involved (FJ\$)	Outcome
Star Agencies	17	\$69,280.00	All for legal action in court.
Australian Recruitment Services	17	\$76,590.00	10 already closed. 7 in court for legal action.
<b>TOTAL</b>	<b>34</b>	<b>\$145,870.00</b>	

**Source: FCCC Database**

Table 4 below shows that FCCC only received 2 cases against Travel Agents in 2017 out of which one is already closed. This shows a vast improvement and it seems as if the Stakeholders/traders are aware of the laws and compliant to FCCC Act 2010. This could be due to the fact that FCCC has been heavily involved in conducting awareness, press releases or it could be through the outcome of the enforcement actions taken by FCCC. Therefore, the trend suggests this sort of scam is decreasing.

**Table 4: Summary of Complaints received by FCCC against Travel Agents in 2017**

Travel Agent Name	No of Complaints Received	Amount Involved (FJ\$)	Outcome
TT Services	1	\$7,000.00	Matter closed.
Zenith Consultant	1	\$12,500.00	On-Going Investigation

**Source: FCCC Database**

Another scam which happened in 2014-2015 was the cases against Mukesh Naidu. Currently 118 cases remain in the Court filed against Mukesh Naidu in regards to land. Mukesh Naidu took deposit from consumers and promised to provide land but failed to deliver. This was in contravention of section 88 "failing to supply as ordered" and section 79 "false and misleading representation to land" of FCC Act 2010. This scale of scam has not happened to the consumer till date. Hence, it can be said that such scam has decreased. Though FCCC still receives complaints against stakeholders/traders who fail to deliver when ordered. But its only one off.

8. Your area of responsibility is very broad and requires special expertise. Are you properly resourced in terms of the numbers and qualifications of your Team to carry out the tasks that are required of you?

The Fiji First Government has been very proactive in promoting robust competition in Fiji's economy and also protecting all Fijians through consumer protection legislation. This commitment has been demonstrated through empowerment of the FCCC through legislative mandate to become a multi-sector regulator and by also continuously providing budget increases to adequately resource FCCC to progressively achieve its aims and objectives under the FCCC Act 2010.

Following the merger of Commerce Commission, Prices & Incomes Board and Fair-Trading Department, FCCC started out in 2010 with an annual budget of \$1.7m. Over the years, with increasing functions and expected outcomes, the budget has increased to \$3.6m. It is anticipated that FCCC will continue to receive additional functions in areas of regulation and price control and hence shall continue to seek additional resources where these are needed.

The current organizational structure and staff capacity of FCCC provides a strong foundation to address different facets of FCCC Act 2010. The increased budget has enabled FCCC to hire industry experts in the areas of pharmacy and to setup a separate legal department in order to build in-house capacity.

FCCC has been managing its operations and achieving its expected outcomes within the budget allocation from Parliament. Under the 5 Year & 20 Year National Development Plan, there is increased focus on rural and maritime areas. These regions are the most vulnerable to exploitation by unscrupulous traders and currently the visits to these regions have been restricted due to limitations in staff numbers and relatively high costs involved in getting to these regions. This area is being looked into with the possibility of increasing FCCC's presence in the rural and maritime regions.

Another area that is being looked into is strengthening of FCCC's role as the competition agency. This important function is in its infancy and more resources are definitely required to strengthen the function. The support of FijiFirst Government has enabled FCCC to secure technical assistance with Asian Development Bank, which has allowed FCCC to achieve a

review of FCCC Act 2010, adopt its first ever Strategic Plan 2018-2023 with particular focus on competition, and to complete its rebranding. There are plans to engage ODI Fellows to provide expertise in area of competition and enable building to local capacity to meet future demands of regulation and consumer protection.

There is a general shift command/control-based approach to one where FCCC is esteemed by its stakeholders as a strategic partner rather than just as a watchdog. This would only be possible through continuous research, surveys and analysis, and of course with additional funding where required.

9. On page 19 of the 2015 Report under 'Liquid Waste Fees & Levies – Water Authority of Fiji' it mentions that the 'draft first phase implementation of the Industrial Liquid Trade Waste Services Charges will come into effect after the finalization of the National Liquid Trade Waste Standards by WAF based on the Commission's Authorisation'. Did this eventuate and if so, when?

Based on the submission made by WAF, a review of the liquid trade waste charges was carried by FCCC within the period 2012 to 2015. FCCC had completed its study and had provided the draft Authorisation to WAF for its submission and approval from the Cabinet on the Liquid Trade Waste Policy. FCCC had informed the final rates will be released by FCCC once the National Liquid Trade Waste Standards are finalised.

On 15 February 2017, the Liquid Trade Waste Policy was endorsed by the Cabinet. Based on the cabinet decision paper CP 37 of 2017.

It was observed that the liquid trade waste charges have been endorsed by the cabinet under the Liquid Trade Waste Acceptance Customer Management Plan forming part of the Liquid Trade Waste Policy.

In addition, the Liquid Trade Waste Policy contained the liquid trade waste fees and apart from that it also contained administrative rates, approved by cabinet. WAF was informed that FCCC cannot approve or gazette something that has been approved by a higher authority. Once cabinet has endorsed a document, FCCC does not have the right to change the cabinet decision.

As per Section 158 of the FCCC Act 2010, FCCC may need not prescribe fees where specific law provides for regulations. Section 42 (1), Regulations part (a, b, c) of the WAF Promulgation 2007 states that the Minister has the powers to prescribe "other fees, charges and the rate of interests for the purposes of this Promulgation".

With respect to these areas on the legality to gazette the liquid trade waste charges and administrative fees under the Water Authority of Fiji Promulgation 2007, WAF through its line Ministry, Ministry of Infrastructure and Transport under Department of Water & Sewerage (DWS) has sought legal opinion on the specific interpretation from the Solicitor General's office.

In conclusion FCCC shall be happy to provide any clarification and/or information as deemed appropriate by the Standing Committee on Economic Affairs.

Yours faithfully



**Seymour V Singh (Mr.)**  
Acting CEO  
[Seymour.singh@fccc.gov.fj](mailto:Seymour.singh@fccc.gov.fj)



"licensee" means a holder of a telecommunications service licence, or a provider of any telecommunications service;

"reference interconnection offer" means a publicly available document required to be published by a licensee defining a full set of technical and commercial terms by which the licensee offers interconnection services to other licensees, and forming the basis of a transparent offer by the licensee to contract with another party through an interconnection agreement;

"Telecommunications Appeal Tribunal" means the Telecommunications Appeal Tribunal established under the Telecommunications Promulgation 2008;

"Telecommunications Authority" means the Telecommunications Authority of Fiji established under the Telecommunications Promulgation 2008."

## PART 5B—FIXING AND DECLARING PRICES

### *Goods and services*

44.—(1) The Commission may, with the approval of the Minister, by order, fix and declare the maximum price or charges by any person (including the State) in the course of business for the sale of goods or the performance of services, either generally or in any specified part of or place in Fiji.

(2) Before making or giving an order or notice under this section (other than one which only removes or lessens a restriction), the Commission shall, give fourteen days' notice in the manner prescribed in subsection (3) to the person selling the goods or performing the services which would be subject to the restriction, and shall afford to such person an opportunity of making representations to the Commission which, unless the Commission otherwise directs, shall be in writing.

(3) If it appears to the Commission to be impracticable to give notice under subsection (2) to all the persons selling the goods or performing the services, it shall instead give fourteen days' notice by publication in the Gazette and in such other ways as it may consider appropriate of its intention to make the order and shall afford to all those persons an opportunity of making representations to the Commission which, unless the Commission otherwise directs, shall be in writing.

### *Rents*

45.—(1) Subject to the provisions of Section 46, but notwithstanding the provisions of any other written law, the Commission may, with the approval of the Minister, by order, restrict increases of rent in respect of the letting or continued letting by any person or class of persons (including the State) of any premises under any tenancy.

(2) Any order made under subsection (1) may include provisions excluding, adapting or modifying any provisions contained in, or having effect under, any written law which relates to rent, and in the exercise of any power to make subsidiary legislation under any such written law regard may be had to matters connected with the operation of this section.

(3) A person or body corporate increases rent in contravention of sub-section (1) or (2) is guilty of an offence and is liable to a maximum fine of \$2000.

### *Exclusions*

46.—(1) The provisions of Part 5B and 5C—

- (a) shall not, in so far as it relates to rents, apply to a lease or licence of native land granted by the Native Land Trust Board;
- (b) shall not affect the provisions of the Banaban Lands Act;
- (c) shall not, in so far as it relates to rents, apply to agricultural land as defined in the Agricultural Landlord and Tenant Act;
- (d) shall not affect the provisions of the Rotuma Lands Act;
- (e) shall not apply to any goods or services where such application would be inconsistent with any international agreement or arrangement to which Fiji is a party;
- (f) shall not apply to any charges relating or incidental to international freights and passenger traffic;
- (g) shall not apply to prices paid on the last sale of goods exported or re-exported from Fiji

(2) The Minister may, by order, exclude from the provisions of this Decree or of any part of this Decree such persons or classes of persons as he may consider necessary or desirable.

# APPENDIX 2

## VERBATIM



# **STANDING COMMITTEE ON ECONOMIC AFFAIRS**

**Submittee: Fijian Competition and Consumer Commission (FCCC)**

***[Verbatim Report of Meeting]***

**HELD IN THE  
COMMITTEE ROOM (EAST WING)**

**ON**

**MONDAY, 30<sup>TH</sup> APRIL, 2018**

**VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON ECONOMIC AFFAIRS HELD IN THE COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON MONDAY, 30<sup>TH</sup> APRIL, 2018 AT 11.30 A.M.**

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**Interviewee/Submittee:**      **Fijian Competition and Consumer Commission (FCCC)**

**In Attendance:**

- |    |                      |   |                                |
|----|----------------------|---|--------------------------------|
| 1. | Mr. Seymour Singh    | - | Acting Chief Executive Officer |
| 2. | Ms. Senikavika Jiuta | - | Manager, Legal                 |
| 3. | Ms. Sundhia Ben      | - | Manager, Economic Regulations  |
| 4. | Mr. Amit Sen         | - | Manager, Corporate and Finance |
- 

MADAM CHAIRPERSON.- Good morning, everyone. We are the Standing Committee on Economic Affairs and I will introduce ourselves: on my left here, we have Honourable Vijay Nath and Honourable Prem Singh; on my right, we have Honourable Viliame Gavoka and Honourable Alvick Maharaj; and my name is Lorna. On behalf of our Committee, I would like to welcome the team from the Fijian Competition and Consumer Commission: we have Mr. Seymour Singh, who is the Acting CEO; Ms. Senikavika, who is Manager, Legal; we have Mr. Sundhia Ben, Manager, Economic Regulations; and also Mr. Amit Sen, Manager, Corporate & Finance.

We are here today to discuss the Annual Reports of the Fiji Commerce Commission (FCC) - 2014 Annual Report and also the 2015 Annual Report. We had given you a list of nine questions for us to start off with, so what I would like to do, Acting CEO, is to give you the floor and if you could go through the answers to those questions. If we require any supplementary questions or additional information, we will ask you as we go along. Thank you again for coming and I give you the floor.

MR. S. SINGH.- Thank you, Madam Chairperson. If I may, before I start, as far as the 2015 and 2014 years are concerned, I am assisted by very able Managers of whom only one of them was there during that time. Based on the records and the information available, we have provided you with the response on Economic Affairs, Madam and the Committee Members as well.

MADAM CHAIRPERSON.- Thank you, we understand.

MR. S. SINGH.- Thank you, Madam Chairperson, through you, the first question that was raised: "How proactive was the Fiji Commerce Commission (FCC) in regulating anti-dumping laws to protect industries like PAFCO in Fiji?"

At that time, these anti-dumping laws were targeted by the Government for those countries who were transporting or selling goods to Fiji and we were importing them which were not in the best interest of consumers. For that, when we look at our laws, it says that FCCC's objectives, apart from promoting consumer interest, is also ensuring effective and efficient development of competition, industry, trade and commerce.

Initially, this law was given to MITT for administration. However, later, we, being one of the statutory authorities under MITT and independence given to us as well, because under

Section 2 of the FCCC Act 2010, it also provides consideration to the environment, and the social aspect of the FCCC Act 2010. During the periods 2014 and 2015, we were known as "Fiji Commerce Commission (FCC)". At the commencement of 1<sup>st</sup> August, 2017, we are now known as the "Fijian Competition and Consumer Commission (FCCC)".

Post that assistance sought from FCCC, we had signed an MOU with the Fiji Revenue and Customs Services (FRCS) to be able to jointly address the anti-dumping laws and its effect into Fiji. That is the reason we had gone into this area and normally when PAFCO was addressed, we perceived that it was also looked at in terms of the canned fish that were being imported into Fiji which sometimes are even a bit cheaper than the locally produced ones. That is the reason why we had intervened at that time, Madam Chairperson.

MADAM CHAIRPERSON.- Thank you.

MR. S. SINGH.- With your permission, Madam Chairperson, I would like to move on to Question 2 which makes reference to Page 14 of the 2014 Annual Report, especially making reference to the e-ticketing services.

In 2013, during the period of which this Report encompasses the information there was an attempt by the then stakeholders to engage into the e-ticketing system in Fiji and that included all the bus industries as well as the Ministries involved. Our involvement was only when the initial bids were called through the tender process, and it was given to TFL, it was given a time frame, TFL was not able to deliver the solution and then it was given to Foneology who was again dependent on another entity to provide a backup service and then providing a front-end solution. When that did not work, it was then suggested that Foneology, which is already a separate entity, joined Digicel.

At that time, we stepped in to say that that is anti-competitive and the bids were called in and when they had promised that they will deliver the services as per the bids that were tendered, it came to show that they provided different solutions than what they had initially tendered for. So another tender was to be called, and that is the reason we had entered into that bid whereby we thought that it was good that another tender be called, in the interest of competition, Madam Chairperson.

With your permission on the third question, Madam Chairperson, there is a perception that Fiji is overregulated and in some quotas, the belief is that we must go on laissez fair, which is open markets, in the opinion as regulation delivered in terms of price stability. Just to emphasise, Madam, there is a number of products at the Price Control in Fiji and when we say "price stability", we do not mean that any item costing around \$2.03 remains at \$2.03 per kg, let us say, potatoes. When we say "stable" what we meant is that fluctuation is maintained at the minimal for all commodities because even we import garlic, potatoes, any changes in the countries that we import from have impacts on the price in which we purchase, so by price control, the stability that we maintain is minimum fluctuation.

If you look at fuel, through you, Madam Chairperson and Committee Members, when we say "prices of fuel in Fiji", it is a post adjustment. So for the last three months for which the fuel companies had bought fuel in Fiji, when we reviewed whatever they paid for purchases, freight, insurance and the over-head costs, now we give them a rate for them to recoup the investments they have made in the last three quarters so they are able to adjust the up-prices or the low-prices in the last quarter (post quarter) and this was done because a study was carried out by FCCC

whereby when we studied the time that the fuel was purchased and the time that it reaches a common man's fuel tank in a car, it takes about 65 days. So we have a 90-day turnaround period to be able to make assessments, and that is the reason we have a number of regulations, Madam Chairperson, and these include hardware prices as well.

In our view, we are not overregulated now, however from 2010 until now, through you, Madam Chairperson, the only reason we were formed in 1973 was because of hurricane *Bebe* in 1972 and we were known as the "Prices and Incomes Board". From then until 2010, the three major institutions, namely the Fair Trading Department, Commerce Commission and the Prices and Incomes Board, they were merged to form FCC, and we were to look at consumer interest as well as trader interest so that the traders will make equitable returns and not exorbitant returns. At that time, according to economic theory, we were under Command Control System whereby you make errors or contravene any sections of the FCCC Act, we fine you as a trader.

From the Command Control System, we are now moving towards deregulation and in between comes voluntary compliance and self-regulation under which we are now working towards having voluntary compliance framework with industries whereby an industry would say, "We would like to voluntarily comply" and if we make *ad hoc* inspections and fine them if there are any contraventions, then we fine them as per the law. So we are now moving from the Command Control System, and this is evident with our Strategic Plan which was launched by the Honourable Prime Minister on 26th March, 2018.

The fourth question, Madam: "What role did FCC play in the recent review of Port charges as a Regulator?" We have given the three reasons or objectives under that:

- 1) The need to maintain the investment and employment because the Port remains a monopoly in Fiji, and in order to continuously encourage trade and commerce through ports that we have, it was felt that we regulate the charges that the ports have;
- 2) The need to discourage a person who is in a position to substantially influence a market for goods and services from taking advantage of that power in setting prices of goods. Basically what it actually means, Madam Chairperson, is that the Port charges that are paid for and when the goods are cleared, we are able to maintain an equitable return to ports as well as to ensure that the goods that are subsequently supplied to the Fijian markets remain at a reasonable and justifiable price.
- 3) The need to discourage unreasonable cost increases arising from inefficiencies and when we set prices or charges for a particular service, what that looks into is the cost of operations, the overhead cost of an institution, and continuously reviewing charges also ensures that the institution now has to work on efficiencies, reducing its cost of operation so that will bring in a lower cost of tariffs as well.

This is aligned to the FCCC Strategic Goal No. 3 which is to ensure price regulation and regulated entities are economically justified and applied in an efficient manner, and in recognition of this, FCCC's function is to consider price submissions for review with particular regards to the items that I have mentioned.

Madam Chairperson, with your permission, Question No. 5, on Page 13 of the 2015 Report, "There is talk about Basic Food Items Price Review, do you also consider the content of the product?" As far as the quality is concerned, Madam Chairperson, that is maintained by the

Ministry of Health under the Food and Nutrition Unit for foods and other items. The standards are set by the Ministry of Industry, Trade and Tourism in the Standards Department. The place where we come in is in pricing, and most of the pricing that we set are for imported canned fish that land on our shores.

It says that there is talk about Basic Food Items Price Review and when we review food items setting prices, this is to ensure that food remains affordable to the common man and these foods are basic food items like oil, flour, rice, sugar, et cetera.

As per one of the Strategic Goal's also, we have to carry out reviews to ascertain whether we continue reviewing the items that we do or the sectors in which we do regulations. For that we need to do market study and one of the key Strategic Goals we are now carrying out is our market studies, with the help of the technical assistance from the Asian Development Bank, to be able to ascertain whether we should continue reviewing prices and if we do, there is a list of items that remain the same. So that will entirely depend on the market research and study.

Madam Chairperson, Question 6, Page 24 of the 2015 Report under FCCC 2010, Rent Freeze has been talked about. We understand that the residential rent is frozen. How is this freeze applied to ground rent? For that we have attached the Ground Rent Order as Annexure 1.

The Order is basically called a "Fijian Competition Consumer Commission (Rent Increase Restriction on Residential and Ground Rent) Order 2017", which expires on 31st December, 2017.

The rent freeze came into effect on 2nd March, 2007 and until now there is a freeze on residential rent as far as ground rent is concerned. This Order is for the period of one year, from January to December, so the last Order that expired on 31st January has been made into effect from 1<sup>st</sup> January, 2018 until 31<sup>st</sup> December, 2018. It says, the "Rent Increase Restriction on Residential Premises and Ground Rent: Between the period of 1<sup>st</sup> January, 2018 and 31<sup>st</sup> December 2018, a person must not charge rent in respect of the letting or continue letting of any premises under residential tenancy including ground rentals to which the Act applies which exceeds the rent applicable to those premises as at 31st December, 2017."

So the ground rent also, when it is leased through, say, Housing Authority, if the Housing Authority has 500 acres of freehold land and then leases it for 99 years then the rents under those are restricted, Madam Chairperson, the ground rent. There are exclusions and then you have a list of exclusions under Section 46 of the FCCC (which we have also attached), in which we say that:

*"Exclusions*

46(1). The provisions of Part 5B and 5C –

- a) shall not, in so far as it relates to rents, apply to a lease or licence of native land granted by the Native Land Trust Board (which is iTLTB);
- b) shall not affect the provisions of the Banaban Lands Act;
- c) shall not, in so far as it relates to rents, apply to agricultural land as defined in the Agricultural Landlord and Tenants Act;
- d) shall not affect the provisions of the Rotuma Lands Act;
- e) shall not apply to any goods or services where such application would be inconsistent with any international agreement or arrangement to which Fiji is a party;



- f) shall not apply to any charges relating to incidental or to international freights and passenger traffic;
- g) shall not apply to prices paid on the last sale of goods exported or re-exported from Fiji.”

So, these are the exclusions to which the Order is subjected to.

HON. P. SINGH.- Also applied to state leases? You have exclusions relating to iTLTB and ALTA?

MR. S. SINGH.- No, Sir, those exclusions are not with the State.

HON. P. SINGH.- State leases, no?

MR. S. SINGH.- Yes, because most of the State leases are sold as State land to which the ground rent does not apply. It is just a \$10 fee per annum, the last time we had that.

HON. P. SINGH.- But for tenants who lease State land for residential purposes.

MR. S. SINGH.- The residential rent is restricted.

HON. P. SINGH.- Oh, it is?

MR. S. SINGH.- Yes, even on a State land, if you have a house in which you have an apartment or a home for residential purposes, it is restricted. The rent should remain the same as of 2<sup>nd</sup> March, 2007.

HON. P. SINGH.- So, how do you monitor this?

MR. S. SINGH.- We have a team for monitoring the rent and we have a database of rental activities in Fiji. So, we *ad hocly* apply the monitoring of the markets and basically going from house to house selecting that “This is the region this month and next month is another region”. We have inspection officers in the Central Division, Western Division and the Northern Division who *ad hocly* pick up samples in streets and regions to be able to go and visit.

HON. P. SINGH.- Fine, that is in respect of residential leases.

MR. S. SINGH.- Correct, Sir.

HON. P. SINGH.- What I am talking about is the ground rental for State-leased properties. According to lease conditions, they have a five-year reassessment period. Every five years the rent gets reassessed, whether that is limited in this one?

MR. S. SINGH.- If it is iTLTB, then it is not.

HON. P. SINGH.- No, it is not, I am talking about State leases.

MR. S. SINGH.- For State leases, we have not received any complaints as yet.

MADAM CHAIRPERSON.- Please, continue.

MR. S. SINGH.- Through you, Madam Chairperson, Question No. 7, "On Fair Trade cases, you have highlighted a number of consumer complaints. What is the experience so far: is the number of scams increasing or has it decreased?"

In the 2014 to 2015 period, Madam Chairperson, we had noted a number of land scams up to 118 files being filed with us. A number of online scams like "Desi fashion", "Fashion Palace" in which payments were made and goods were never delivered. Those cases are now in court.

Post 2015 and 2014, we had done a numerous awareness on such scams. Such scams are now very limited in the sense that the number of scams have reduced in comparison with the complaints we have.

If you look at Table 3 on Page 3, it says "Summary of Complaints received by FCCC against Travel Agents (2014 to 2016)", now we have two more Star Agencies and Australian Recruitment Services under which unscrupulous personnel had dealt with consumers in Fiji (our customers) and taken money without being able to supply goods as ordered which is a contravention of FCCC Act 2010 whereby the types of scams have reduced but there are still a few which have come into our radar and we are taking them through the normal judicial machinery.

If you look at Table 4, "Summary of Complaints Received by FCCC against Travel Agents", one was TT Services (\$7,000). We managed to close the matter by mediation and payment of all moneys.

The other is Zenith Consultant. Currently, the investigation is continuing on this complaint so the quantum of money involved and the number of complaints has actually reduced from 2014 and 2015.

Through you, Madam Chairperson, Question No. 8: "The FCCC area of responsibility is very broad and requires special expertise. Are you properly resourced in terms of numbers and qualifications of your team to carry out the task that are required of you?"

We are, in fact, thankful that from 2010, our budgets have increased due to increased responsibility and submissions that we have made. During this period, we have noted an increase from the normal \$1.7 million to \$3.6 million budget allocations, and given the extension of the ambit of the FCCC Act 2010 from Command Control towards deregulation, we have carried out a number of researches and investigations which include the recent bus fare review which was taken up by our Special Investigations Fund.

We have also carried out investigations into mechanical harvesters which led to a price of \$17.50 per tonne for the harvesting of canes by the mechanical harvesters. We believe that due to this support in terms of grant by the Government, we are able to carry out our duties and we will be asking for more money actually, given that we will be carrying out a number of other initiatives in the coming years and we will submit our budget accordingly in terms of resources.

As far as our resources in terms of human resource is concerned, we are now regulating a number of industries, so recently within last year, we have hired professionals from industries. We now have a registered pharmacist with almost eight years of experience on board to look into the pharmacy sector.

Also, we now have a person with electrical knowledge to look into the electricity sector so going forward, we are already building up our capacity knowing that in the near future (next three to five years), we will be expected to carry out researches for which our work had already started last year, from 1st August, 2017. That is as far as our human resource and qualifications are concerned and the experience that we have in terms of law, we have the entire legal team, managed by the Manager, Legal, Risk and Governance, Ms. Senikavika Jiuta Lagilagi (on my left) - a five-member team.

We have a separate Economic Regulations team looking after Economic Regulations and then we have senior market analysts looking after each industry, for example, ports, electricity, pharmacy or fuel and Liquefied Petroleum Gas (LPG). Likewise, we have Price Control and Monitoring Division which looks after rent monitoring, price monitoring and price control.

Then we have the Competition and Compliance Division which looks after competition issues as well as compliance, meaning that they listened to all complaints under Section 15 of the FCCC Act, so we believe that we are adequately resourced and whenever we seek any extension of resources, we are able to get them.

The last question, Question No. 9, Page 19 of the 2015 Report under "Liquid Waste Fees & Levies": on 15<sup>th</sup> February, 2017 the Cabinet had endorsed the Liquid Trade Waste Policy and based on that policy, the charges would come into effect. We are still awaiting the response from the Water Authority of Fiji, with respect to the administrative fees to be able to engage into a dialogue, how it applies subsequently. So, Water Authority of Fiji has yet to come back to us in terms of how the phases would phase-out after the policy has been endorsed by Cabinet, and I believe the team at the Water Authority of Fiji are still working on it to be able to provide us the details of the administration of the policy under the Liquid Trade Waste. That is all from our Team, Madam.

MADAM CHAIRPERSON.- Thank you very much, Acting CEO. I would like to now open the floor to other questions from our Committee Members.

HON. V.R. GAVOKA.- Madam Chairperson, on Question 2 regarding the implementation of the service - e-ticketing for buses: the tender process from the initial stages appear to have been difficult in terms of determining who the players were, it is likely that you went to a number of people, and this one could not do it, then you went on to the others. At what point do you intervene in matters like this, is it during the tender process or afterwards? You have highlighted quite a confusing scenario there on who was doing this and who was doing that, when do you intervene?

MR. S. SINGH.- Thank you, Honourable Gavoka, our intervention is not at the initial stage because the tender process is already outlined by the Ministries calling for them. So, they have a tender process under which they will govern the process. The area where we come in is when there are issues raised in terms of competition or compliance. So, then we would investigate and check whether there is an issue of competition; or whether there is an issue of compliance? Under this process of e-ticketing, the entire due process was followed in terms of tendering, however when the party that was awarded the tender could not deliver within the given period of what they have promised, it went to the next party. When the next party realised what they have submitted, they found out that they did not have the ability.



They needed to then make changes to their tender which they have already tendered - to tender it with *Digicel* which could not happen because the tender process had already ended and you have already tendered for, therefore another tender had to be called in order to maintain the independence of the process, and that was where we intervened, Sir.

HON. V.R. GAVOKA.- Could your intervention have been earlier?

MR. S. SINGH.- You mean to say ....

HON. V.R. GAVOKA.- I mean, in the process of tendering and determining their ability to execute, could you have intervened earlier? Are you empowered to intervene when you see that things are not happening the way they were laid out to be.

MR. S. SINGH.- Just a correction there, Honourable Gavoka: things were happening as they were supposed to be until the tender process. FCCC does not intervene during the tender process of any institution unless and until there is a breach of the Act itself, so the entire process when it was given, the successful tenderers were issued with a chance to provide the services, that is where the issues were raised and that was where we intervened.

To intervene at the tender process would be very preliminary because normally that is guided by the process that the institution has. So, in this particular case, no, Sir, not at the tender stage.

HON. V.R. GAVOKA.- Because if I remember correctly, there was quite a bit of uproar from the general public about this.

MR. S. SINGH.- The uproar was about "accessibility". When the talks of getting *Digicel* on board were being discussed, majority of the public were worried about whether *Digicel* outlets are everywhere in Fiji, whether or not that access can be given to the consumers who will ride on the bus, given that the substantial market power was with another company who could not, at that time, provide an end-to-end solution. So in the tender process in Fiji, any institution would not have held the control of who tenders, if that tender process had come to a place whereby there were no successful bidders, then it would have been internationally called as a "normal process". However, due to local companies bidding for the tender, the tender process had given them the opportunity to provide services, opportunity to provide front-end and back-end which they could not at that time.

HON. V.R. GAVOKA.- Are you comfortable with your roles in a situation like that because we were trying to look at the lessons we could learn from these things.

MR S. SINGH.- Yes, the lesson we learnt also was that normally in this, all parties need to be consulted at every stage, because sometimes when bidders bid, another problem that is now faced is the number of bidders for construction companies but then we need to check on the capability, profile, et cetera. There is a number of issues that are raised through complaints, so we did a post assessment and we felt that probably all stakeholders should have been well aware of what they were required to do. Thank you, Sir.

HON. A.A. MAHARAJ.- Madam Chairperson, through you, Report 2014, Page 35; Report 2015, Page 29: Figure 7 and Figure 4 - Total Value of Fine Imposed in Court for the Respective Division: would you be able to explain, how can two graphs from two different tiers be very similar? As far as I can see, it is basically symmetrical and two different Reports. The trends are similar, the values are basically similar.

MR. S. SINGH.- Sir, after 2014 and 2015, we had started another approach, if you look at the values on 2014, it will remain the same.

In 2015 and 2016, the number of fines imposed by us was not more than the previous years and the reason with that was that, another approach was being taken whereby we were getting engaged with the industries in terms of what the requirement was in carrying out awareness, so that is the reason why it looks similar in the trend analysis.

HON. A.A. MAHARAJ.- Basically, what you want to say is like, for example, if you look at the first one - Overcharging, 2014, it was the Western Division with the highest, followed by the Northern Division and then the Central Division.

In 2015, it also followed the same trend with the Western Division being the highest, the Northern Division and then the Central Division.

MR. S. SINGH.- Yes, Sir, basically, there was an indication that we need to have a few more staff in the Western Division which we have increased in 2016 and 2017 now.

In the Central Division, normally, our presence was felt a bit more, so with that experience now, we have two more staff in the Western Division.

HON. V.R. GAVOKA.- On Question 4, relative to Port charges, we also scrutinised the Report for PAFCO in Levuka, and one of the areas of concern there is the significant increases in Port charges with the privatisation of the ports and it is affecting the cost of the operation.

When you look at setting up those charges with the ports, did it include a player like PAFCO because they are struggling under the cost that is being imposed upon them by the ports in Levuka. I mean, again, you say here that you are also considering the viability of the industry that is affected by these surcharges.

MR. A. SEN.- Correct, Sir.

HON. V.R. GAVOKA.- In a case like that where it is directly impacting on the operation of Levuka, is there any other way of cushioning the blow instead of going directly from increases? It could be that your cost today is "X" and then you go "X plus" to make it viable for ports but in the process you are affecting a key industry like PAFCO, so what kind of formula do you use in there?

MR. S. SINGH.- To answer that question, Sir, we use a lease cost method when we do a review for ports and when we set charges, it is the maximum charges, meaning if a service fee is \$15.35, that means the port can charge \$12.00 also. So when we set charges or prices of goods, those are the maximum charges set for any monopoly industry. When we set them, we call for submissions of all industries and whenever they say that it is more or less, they have to justify why they feel it is more, and it has to be accompanied with numbers, financials too, to let us see that, "All right, these concerns are justified".

So whenever we set them, we do a holistic approach in terms of the private sector, government sector and non-government sectors - all are called in to give submissions. Since we set a maximum price, it can change, there can be an agreement between any entity and the ports for a possible lower charge but that agreement has to be done within their ambit of commercial agreements. However, we will be reviewing charges periodically. Nothing stops any entity to make submissions now and say, "We would like a review and these are the reasons." We have to

look at it, we are not saying that we will not review but the actions subsequently again call for all submissions from all stakeholders to be able to impact those.

HON. V.R. GAVOKA.- Just an observation, ports have been privatised, there is a new player in town and he needs to look at his cost and his revenues, right?

MR. S. SINGH.- Of course, Sir.

HON. V.R. GAVOKA.- My concern is that, it should not be just “cost plus revenue” for them to make them viable ...

MR. A. SEN.- Correct, Sir.

HON. V.R. GAVOKA.- ... because their existence also benefits other agencies that are critical to Lomaiviti socio-economic development in there, so it is not always “cost plus” for them to say, “Look, I need to survive, this is what I am going to charge” because you have got to balance that against other players in the marketplace.

MR. S. SINGH.- That is true, Sir, that is why we look at all the submissions from every entity and we look at the actual financial support also and ensure that when the first charges were set for ports, our officers were on ports counting the loading and unloading time. They were there 24/7 to be able to see the loading and unloading; how does that affect the actual financials of ports? That gave us an insight on how to look at each revenue generation line items of the financials that were submitted. So, you are true, when we look at them, we do not approve blindly in terms of “this is your cost and this is the rate of return you want and we will give it to you.” We also look at how efficient they are; what is their overhead cost; we look at similar countries abroad and see what their practices are. In setting, whereby we use lease cost method or building block method, we also look at the literature review in terms of how other countries address such situations.

HON. P. SINGH.- Just following up on that, Madam Chairperson, naturally monopolies they are going to fix charges for ports and any other organisation once you have a maximum, unless it is a private contract between the service provider and the customer, you as the Regulator, do you provide a schedule of charges or is it just minimum and maximum? I say this because it is not only handling of containers at the ports, it is berthing of ships as well.

MR. S. SINGH.- That is true, Sir.

HON. P. SINGH.- That is where Honourable Gavoka is coming from, where the charges for berthing of ships have exorbitantly increased for the Port of Ovalau.

MR. S. SINGH.- We have on our website and I will refer to the authorisation given in fees and charges for Ports Corporation Limited and for Fiji Ports Terminal Limited. When we set rates for different sizes of ships, the rates are different so when we look at them in terms of viability of their business for each different sizes of ships, the charges will be different, it is not one charge for all. When we also look at the per container charges, like “20-feet” and “40-feet”, they have different charges. So setting a minimum would provide restriction in terms of going even lower if the ports can. So when we set maximum prices we say that you cannot go above this because above this would be exorbitant from the market study that we do for all players. When we say “all players” we call for submissions from all ship owners, all operating agencies

also who are affected by this. The ones who submit their documents are the ones that we are able to scrutinise and set prices. So in order to have a say, when we call for submissions, all parties are expected to make a submission.

Before giving a final authorisation, we also provide an opportunity whereby an agency can say "we disagree with the prices", and they can come to us and say "This is the reason why I disagree because these are my facts and figures" and we will again do a review. So every opportunity is provided to the private stakeholders.

(Inaudible)

MR. S. SINGH.- There is a system, yes, Sir.

HON. P. SINGH.- So, yes, regulators also monitor the point of sale or is it just with FRCS?

MR. S. SINGH.- Point of sale.

HON. P. SINGH.- For Pharmacies and Hardwares?

MR. S. SINGH.- For the controlled items, yes, Sir. For the price control items, we call for submissions on an *ad hoc* basis, we also ask for their financials. We also check inventories for particular items and check if the item that they claim that "This is the pricing system, this is the actual price at the point of sale" which also happens in supermarkets, that is why we are charging supermarkets for overcharging. At the point of sale, it may be \$2.64; on the shelf, it could be \$2.01, so if there is a difference between the shelf and the point of sale pricing, it is also a contravention of our Act, and we monitor them by sampling.

HON. V.R. GAVOKA.- Madam Chairperson, interesting when you indicated that you will bring in some experts relative to the industry to sit with you like pharmaceutical companies, et cetera.

MR. S. SINGH.- Yes, Sir.

HON. V.R. GAVOKA.- I know in my days with Civil Aviation (I used to be with CAAFI (Civil Aviation Authority of the Fiji Islands), the regulators of Civil Aviation), we used to have difficulties bringing in someone who knew how to fly jumbos to come and sit in the organisation to monitor the pilots, but that was critical to the operation - to have someone like that to oversee. How are you finding this in your areas, are you having difficulties hiring these types of expertise or are they willing to come and sit with you and monitor their colleagues in the industries?

MR. S. SINGH.- Through you, Madam Chairperson, thank you, Honourable Gavoka, I think, as you have correctly highlighted that there is a gap in terms of the industry experts so in that, I will share with you our latest experience. When we could not find someone to set tariffs for the electricity sector (which we do), we got in an expert from an institution known as Castle Rock through the Asian Development Technical Assistant. They came, not only to train our staff on how to set tariffs, how to study the electricity sector, how to study their financials, they also set up models with them. So, in that three weeks of robust training, they actually taught us how to do this.



So, now we are highlighting or networking with stakeholders who are not part of the industry because once they are part of the industry then there is a conflict of interest in serving whether our interest or the industry's interest by that individual, so we are now networking and setting up partners in terms of, whenever we require them they should be available to provide us with the assistance. Yes, true, we cannot get each expert from each sector.

HON. P. SINGH.- Madam Chair, this is just a revelation we had last week where we had a meeting and one of the landlords was complaining that he has his premises which is rented at \$1,500 and he got the guy out and refurbished the whole thing. He said he was not able to get anything more than \$1,500 he was charging before, is that the case?

MR. S. SINGH.- Yes, Sir, there is a restriction in terms of the rent that you can charge, it has to be the same as it was initially. So, the current Order says that if your rent at 31<sup>st</sup> December, 2017 was \$1,500, today it should remain at \$1,500.

HON. P. SINGH.- If he has invested \$50,000, is there an avenue that he can make submissions to the Commission?

MR. S. SINGH.- Yes, they can make an application to the Minister under Section 47. It has to come through us because at that time, the reason that this land freeze was done was to ensure that housing in Fiji does not become a problem. It was also to ensure that the landlords are able to set the first price that is deemed appropriate, so the first price that they set is not controlled by us, however, subsequent increment is not possible.

They have to come through us so we will have to ascertain whether or not the increase asked for is justified, whether that \$50,000 has been spent on that particular apartment or was it on another property. If it was done, was a proper planning done and lodged with the Council? So, that will prove that there is actually an expenditure, but it can be reviewed. I am not saying it should be increased or decreased, but we can review them and make an appropriate recommendation to the Minister.

HON. P. SINGH.- So, the initial rent is not controlled by you?

MR. S. SINGH.- That is correct.

HON. P. SINGH.- But there is avenue for review?

MR. S. SINGH.- Yes, it can be made under Section 47 of the Act.

HON. V.R. GAVOKA.- Madam Chairperson, can you give us an outline of the support that you are getting from Government to enable you to do what you need to do? You have said that you have launched a strategic plan lately?

MR. S. SINGH.- Yes, Sir.

HON. V.R. GAVOKA.- In terms of staffing level, what would be the optimum that you will be happy with? We also look at the books of other organisations like the Financial Intelligence Unit (FIU) and the Reserve Bank, et cetera, and we are always interested on how well they are being resourced, especially in the areas of HR because you train your guys, someone comes in and poaches them, but you know, you are highly specialised people.

MR. S. SINGH.- Yes, Sir.

HON. V.R. GAVOKA.- So, where will you be five years from today, it will be nice if we can have a copy of your Strategic Plan.

MR. S. SINGH.- Sir, I just have one with me.

HON. V.R. GAVOKA.- All right, so in terms of your growth, you will be growing progressively.

MR. S. SINGH.- That is true, Sir.

HON. V.R. GAVOKA.- So, where will you be five years from today, for instance?

MR. S. SINGH.- To answer that question, I will go back two years, two and a half years ago, Sir, when we had 43 staff; today, we have 64 given that the role from Command Control towards deregulation that in the next five to 10 years, we need to continuously assess markets, not only that, in August 2015, we did a PWC remuneration survey, post that, yes, there was quite a bit of poaching in terms of our employees. They were highly marketable because they used to look at different countries' finances and they were trained in a number of industries. So when these accountants, financiers or personnel who do investigations go out, they can get a job even at the Fiji Independent Commission Against Corruption (FICAC) where two of our staff have gone to. So we did a PWC remuneration check and all salaries were adjusted from 1<sup>st</sup> August 2017 and that is through the Government grants that we have, so that was addressed.

Now, the challenges of increasing staff numbers, we knew in 2016 that our staff will require an increase in the next two years. For that, we had asked the Government for additional moneys whereby we can have additional work space for which we were granted, and now we are in the process. We have already called for tenders and 64 staff cannot fit where we are, we have 59 fulltime equivalent now. We have to hire nine more staff and that will go down the basement that we are now developing for the institution. So tenders have been called for and shortly we will be engaging the successful bidder to do the works. So in that scenario, yes, we will be progressively increasing. We will do another assessment this year and see whether we require additional funds in 2020-2021 and then next year, subsequent submissions will be made to the Government.

HON. V.R. GAVOKA.- What kind of qualifications do you look for? If someone is out of university, looking for a position with you guys, what would you look for?

MR. S. SINGH.- They will come as a research intern.

HON. V.R. GAVOKA.- All right, Major in what?

MR. S. SINGH.- It depends which area they work for, for example, if it is Economic Regulations or Energy, we may look at a bit of technical knowledge, so at University, he might have done Electrical Engineering and he comes in as a research intern, he can join us. If he has done Finance, he can join the Costing Department, Finance and Accounting; if he has done Law, our Law Department, and different areas; if he has done Pharmacy, he can come in as a pharmacy expert (which we already have one - pharmacy expert). Now we will be going in different

industries and getting people with at least 10 years' experience and be able to remunerate them to work with us fulltime.

HON. P. SINGH.- All right, last one from me, Madam Chairperson: apart from the challenges in the human resource and staffing, what other areas of your operation do you face challenges? I ask this because in the old system, you only had the Prices and Incomes Board, now that it is a very broad-based organisation.

MR. S. SINGH.- The challenges that we had highlighted in the last three years have been adequately met by the Government of the day and going forward, the submission we have made now is addressing the challenges that we will possibly be seeing in the next year. Currently, if you are talking about staff retention, our salaries are almost private sector salaries. We have followed market median of all the organisations to set salaries.

In terms of human resource, there was one person three years ago, now we have a three-member team which has a Manager, Human Resource; a Human Resource Officer and then a Research Intern. As we are growing, we are also addressing those challenges in anticipation that this would be our growth, we are able to make submissions to the Ministry saying that this will be our requirement of resources so challenges as they pose, we are able to address them.

HON. V.R. GAVOKA.- Madam Chairperson, just on that, if you can dwell a bit on that, again I go back to the Pacific Fishing Company Limited (PAFCO) where they do quite a lot of canning as part of the revenue lines and they are up against this tuna - packed tinned stuff from Thailand, retailing at about FJ\$0.99 which is about US\$0.49.

You begin to wonder as to what was the invoice for that item back in Thailand, so, it could come down to the quality of the content. Sometime ago, people were expressing concern about the quality of lamp in Fiji, mostly flaps or something, it may be out of your ambit but do you have any hand in that at all, in terms of regulating or monitoring the quality of what we get in Fiji?

MR. S. SINGH.- Through you, Madam Chairperson, thank you, Sir, quality versus price. I can tell you that for every canned item that comes to Fiji, our team can give you exactly on which shipment what one can costs; what is the freight cost; what is the overhead cost of that industry; and what is the retail price in the market? We have the entire chain of costing style for every shipment in this country.

In terms of product quality, we engage the Ministry of Health, the Food and Nutrition Department to be able to tell us that. If quality is an issue and there is a complaint, then it is referred to them for first determination. Once that is determined by the relevant authority, then we charge the trader with goods of unmerchantable quality or unconscionable conduct, according to our Act. So, those verifications have to be done by the relevant authorities in terms of standards, quality, Sir, before we can intervene. We do not set standards in Fiji, that is set by a separate entity.

HON. V.R. GAVOKA.- But you know that we can track the chain of pricing along the way?

MR. S. SINGH.- Yes, we have data for the last seven years, to check the price of canned tuna, canned fish in Fiji.

MADAM CHAIRPERSON.- Thank you very much, Mr. Singh. On behalf of the Standing Committee, I would like to thank you and your team for coming at such short notice. We will be compiling our Report to present to Parliament in the May Sitting, and the results of that Report will be available online shortly after. So, once again, thank you very much for coming and we look forward to seeing your 2016 Annual Report.

MR. S. SINGH.- Thank you, Madam Chairperson. On behalf of our team, thanks for the opportunity to present to this forum the answers to the questions raised and we look forward to the Report from this Committee. Thank you so much, Madam Chairperson.

The Committee adjourned at 12.28 p.m.