



STANDING COMMITTEE ON ECONOMIC AFFAIRS

Review Report of the Fijian Competition and Consumer Commission 2018-2019 Annual Report



PARLIAMENT OF THE REPUBLIC OF FIJI
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Chairperson's Foreword

The Standing Committee on Economic Affairs is pleased to submit to Parliament, the Review Report of the Fijian Competition and Consumer Commission 2018-2019 Annual Report.

The Committee is aware of the significant role played by FCCC in ensuring that Consumers in Fiji are protected from unfair and unethical market practices. It works with the vision to create a dynamic and competitive market in Fiji.

The Committee was pleased to note the array of information that was available in the 2018/19 Annual report which helped during deliberations. FCCC had submitted a Written Submission which provided the Committee with a better understanding of their operations during the period under review.

While reading through the Analysis that was provided by FCCC, the Committee noted that the number of rental complaints increased by 58% and recommended that further consultations are held with all stakeholders. It further noted that the three worst industries in terms of complaints received included automotive, construction and white goods with automotive comprising 57% and made recommendations on the same.

Further to this, the Committee noted that Petroleum and LPG prices comprised a major component of not only the cost of business and households but also a key factor in national economic performance. It further noted that the review, "based on submissions and analysis had aligned the regulatory pricing for petroleum products from quarterly to monthly mechanism with the aim to ensure that the volatility of petroleum prices at world market gets reflected in a shorter span of time". The Committee commended FCCC for the successful implementation of this change.

The 2018/19 period was when the FCCC had launched its 5 years Strategic Plan which was from 2018 to 2023. Given the important roles played by FCCC, the Committee looks forward to future reporting against its Yearly Business Plan.

I would like to thank the former Committee Members who were part of the team that produced this report. I also take this opportunity to acknowledge the current Members of the Committee, Hon. Sashi Kiran, Hon. Tomasi Tunabuna, Hon. Semi Koroilavesau and Hon. Premila Kumar for their contribution towards the report.

On behalf of the Standing Committee on Economic Affairs, I commend the Review of the Fijian Competition and Consumer Commission 2018-2019 Annual Report to Parliament.

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Hon. Sakiusa Tubuna (Chairperson)

1.0 Introduction

1.1 Background

Fijian Competition and Consumer Commission (FCCC) is an independent statutory body established under section 7 of the Fijian Competition and Consumer Commission Act 2010. FCCC promotes effective competition and an informed market, encourages fair trade in markets and protects customers and businesses from restrictive practices.

FCCC also controls and regulates prices of regulated industries and other markets where competition is lessened or limited, such as (but not limited to), electricity, telecommunications, posts, maritime and airport sectors.

FCCC's primary responsibility is to ensure compliance of consumer protection laws contained in Fijian Competition and Consumer Commission Act 2010.¹

Committee Remit and Composition

The Committee is made up of five (5) Members of Parliament, three (3) of which are Government members and two Opposition members. According to Section 109(2) (a) the Standing Committee is responsible to look into matters related to economic development, finance, banking and taxation.

¹ <https://fccc.gov.fj/about-fccc-2/>

2.0 Findings and Recommendations

1. The Committee noted that the FCCC Strategic 5 Year Plan runs from 2018 to 2023. It looks forward to future reporting against its Yearly Business Plan.
2. The Committee commended the detailed reporting of activities in the report and recommended that key outcomes of the Strategic Plan be included on a yearly basis in subsequent reports.
3. The Committee noted the work of the FCCC on the draft Landlords and Tenants Bill. Given the importance of the Bill, the Committee recommends that this is finalized as soon as possible.
4. The Committee noted that under the FCCC Act 2010, FCCC is responsible for reinforcing rent control provisions. It also noted that the number of rental complaints increased by 58%. The Committee recommends that further consultations are held with all stakeholders.
5. The Committee noted that the three worst industries in terms of complaints received included automotive, construction and white goods with automotive comprising 57%. The Committee recommends that FCCC consider strengthening and developing new legislations and enforcement procedures to govern these industries.
6. The Committee noted that Petroleum and LPG prices comprised a major component of not only the cost of business and households but also a key factor in national economic performance. It further noted that the review for petroleum products had changed from quarterly to monthly mechanism with the aim to ensure that the volatility of petroleum prices at world market gets reflected in a shorter span of time. The Committee commended FCCC for the successful implementation of this change.
7. The Committee, in light of the public concerns about the Cost of Living, commended FCCC for the various Price Control Order Studies conducted resulting in Regulatory Orders for 5 items including Price Control for Food Items.
8. The Committee commended FCCC's work in the special investigation of the Lagilagi Housing Project which led to reimbursement of the deposit paid by Applicants.
9. The Committee strongly recommends for FCCC to use Fiji Mediation Centre to resolve consumer disputes as a first step before progressing to other alternatives.

3.0 Sustainable Development Goals Analysis

As part of its review the Committee is also mindful of the requirements of the Standing Orders of Parliament whereby all matters before the Committee are to be reviewed through a gender lens. This is supplemented by the Committee's appreciation of the Parliament's role in contributing towards the Global Agenda. A summary of the activities by the Commission is stated below.

SDG 1 - No Poverty

SDG 1 is relevant to FCCC as FCCC administers and authorizes the prices of certain goods and services in Fiji to make it affordable to low-income earners and those living in poverty. Price control is a government policy in Fiji aimed at regulating the prices of goods and services by setting a maximum price or price ceiling.

Price restrictions help reduce poverty by lowering the cost and increasing the accessibility of essential items for low-income individuals and families. For instance, if FCCC uses the price control orders to impose a price cap on the price of food, it will help to ensure that essentials like bread, milk, and other food items continue to be affordable, especially for people with fixed incomes or low wages.

Price regulation also aids in reducing inflation. Inflation control measures can aid in cutting prices, which is a crucial step in eradicating poverty (amongst other things). The cost of goods and services may rise quickly as inflation rates rise, making it challenging for low-income individuals and families to make ends meet. We can assist with the increasing pressure on prices and aid in stabilizing the price of necessary products and services by establishing a price ceiling or maximum price.

Additionally, price controls can also help to prevent price gouging, particularly during emergencies or natural disasters in Fiji, when essential goods and services are in high demand. This can prevent unscrupulous sellers from exploiting people who are in a vulnerable position due to their financial circumstances.

SDG 5 - Gender Equality

SDG 5 is relevant to FCCC as FCCC promotes gender equality by ensuring that essential goods and services are available at affordable prices for everyone, regardless of gender. FCCC proactively investigates and monitors the Fijian market for any gender-based pricing or services discrimination. If any is identified, then FCCC will take appropriate enforcement action and enforce equal pricing standards.

FCCC promotes, encourages, and practices diversity and inclusion in providing services to the Fijian market. FCCC believes that gender equality, diversity and inclusive and consumer enforcement body's roles are interconnected in promoting a fair and equitable marketplace in Fiji. FCCC can promote gender equality, diversity, and inclusion by enforcing the FCCC Act 2010 to prohibit discriminatory practices and by protecting consumers from fraudulent or unfair business practices. These can help create a marketplace that is inclusive, fair, and just for all individual.

SDG 7- Affordable and Clean Energy

SDG 7 is relevant to FCCC as it plays an important role in promoting affordable and clean energy in Fiji. FCCC has been appointed as the Independent Regulator for the electricity sector under Section 5(1) of the Electricity Act. FCCC (amongst other things) regulates the tariff rates, and issues licenses for the generation, transmission, and supply licenses to operators in the electricity sector. FCCC also issues license for generation for solar, off grid and backup diesel generators where continuous monitoring and inspections are undertake to ensure compliance to the Electricity Act 2017, Electricity Regulation 2019 and AS/NS standards.

In regulating the energy sector, FCCC ensures that energy prices in Fiji are fair and affordable for consumers. This includes monitoring and regulating the prices charged by EFL to ensure that they are not excessive or discriminatory, and investigating any complaints of unfair pricing practices.

FCCC promote affordable and clean energy in Fiji by ensuring fair and affordable energy prices, promoting renewable energy sources, investigating complaints of unfair business practices, and providing consumer education and awareness campaigns. These can help create a more sustainable, affordable, and equitable energy system for all Fijians.

96% of the Fijian Population have access to electricity and with the United Nations SDG goals in line with the 2030 agenda for sustainable development, Fiji is now moving towards achieving zero carbon emissions by 2030 and this will see the introduction of different means of clean energy sources entering the Fijian market. Whilst FCCC strives to uphold the directions set out by the government in achieving clean energy the relevance to Goal 7 is that FCCC needs to ensure that these clean sources of energy in the market continue to be affordable to the Fijian population whilst providing equitable returns to the service providers and ensure that providers don't engage in unscrupulous behavior and provide substandard services to its consumers. Through this FCCC continues to create a more sustainable, affordable, and equitable energy system for all Fijians.

SDG 9 - Industry Innovation and Infrastructure

FCCC plays an important role in promoting SDG 9 as FCCC controls and regulates prices of regulated industries and other markets where competition is lessened or limited, such as (but not limited to), electricity, telecommunications, posts, maritime and airport sectors.

Pursuant to section 2(2) of the FCCC Act 2010, FCCC:

1. promotes effective competition in the interests of consumers;
2. facilitates an approximate balance between efficiency and environmental and social considerations; and
3. ensures non-discretionary access to monopoly and near monopoly infrastructure or services.

FCCC promotes competition in various industries, including the telecommunications, transportation, and energy sectors. This encourages innovation and infrastructure development, as companies are encouraged to invest in new technologies and infrastructure to stay ahead of their competitors.

FCCC enforces consumer protection laws and regulations to ensure that consumers are protected from unfair and anti-competitive practices. This creates a level playing field for businesses, as all companies are required to follow the same rules and regulations. FCCC conducts market assessment or research on various industries in Fiji to identify areas where competition is lessened, and innovation and infrastructure development are needed.

Resilient infrastructure, inclusive and sustainable industrialization, and innovation is the objective of this sustainable development goal. Fiji being a developing country has seen over the years numerous developments in various industries and the cost of such developments are trickled down to consumers who utilise services provided these industries. FCCC regulates several industries that directly impact the development of the Fijian economy such as cement, telecommunication, public transportation and many other industries. Thus, whilst FCCC supports the development of these industries FCCC also ensures that as any other regulated industry the market continues to be affordable to the Fijian population whilst providing equitable returns to the service providers to cover investment costs and further invest in the innovation and development of the industry.

SDG 12 - Responsible Consumption and Production

FCCC promotes responsible consumption and adoption by encouraging businesses and consumers to make more sustainable choices. FCCC provides education and conducts awareness to consumers on responsible consumption and adoption practices. This helps to raise awareness of the importance of sustainability and encourages consumers to make more sustainable choices in their everyday lives.

SDG 17- Partnerships for the Goals

FCCC recognizes that partnerships are critical to achieving the SDG's and works to build partnerships with stakeholders across sectors and industries to promote sustainable development in Fiji. For the financial year 18/19, FCCC has collaborated with Fiji Commerce and Employers Federation to protect and promote commerce and industry and exchange and advocate for consumer protection. Further, FCCC has also collaborated with Real Estate Agents Licensing Board by signing an MOU which sets out an agreed basis for policy coordination.

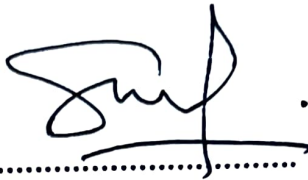
4.0 Conclusion

The Committee was satisfied with the overall performance of FCCC during the period under review.

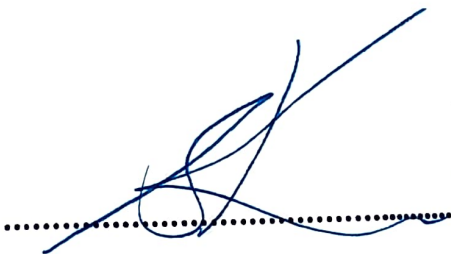
The Committee looks forward to the completion of pending work of the Landlord and Tenants Bill as well as a thorough analysis of how consumer complaints associated with the “worst industries” could be reduced.²

² FCCC Annual Report | 2018-2019 | pages 35 – 36

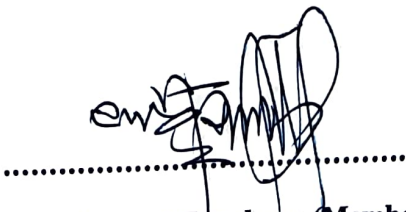
Members Signature



Hon. Sakiusa Tubuna (Chairperson)



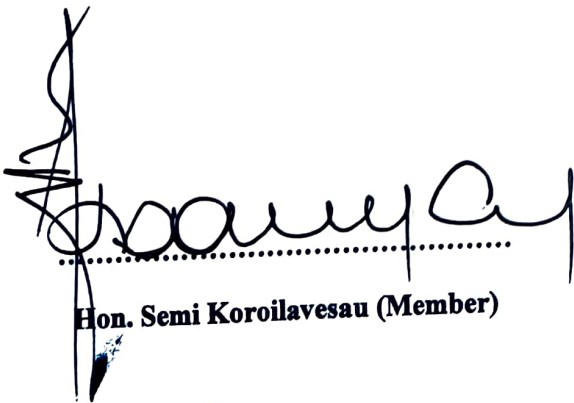
Hon. Sashi Kiran (Deputy Chairperson)



Hon. Tomasi Tunabuna (Member)



Hon. Premila Kumar (Member)



Hon. Semi Koroilavesau (Member)

ANNEXURE

THE FIJIAN COMPETITION AND CONSUMER COMMISSION

WRITTEN SUBMISSION FOR:
THE 2018-2019 FIJIAN COMPETITION AND CONSUMER COMMISSION ANNUAL
REPORT

SUBMITTED TO
THE PARLIAMENTARY STANDING COMMITTEE ON ECONOMIC AFFAIRS
GOVERNMENT OF THE REPUBLIC OF THE FIJI ISLANDS

Thursday, 13 October 2022

Key Highlights & Achievements

1. The FCCC entered the Fiji Business Excellence Awards (FBEA) with the aim of improving quality of its operations through adoption of the FBEA Framework. A cross functional Steering Committee was set-up with representatives from all areas of FCCC to promote internalization of the FBEA Framework in the operations. This is linked to Strategic Goal 4 of the FCCC's Strategic Plan, which encompasses being recognised as an esteemed organization. The FCCC was recognised with the 'Achievement Award' during the event. As part of attaining excellence in service delivery, we strive to continuously learn and improve our systems and process through innovation, and best practices to transfer knowledge effectively, and efficiently, throughout the organisation to deliver our corporate goals and objectives.
2. A joint investigation was undertaken with the Consumer Council of Fiji (CCOF) into the Homes CARE and Farms CARE programme. It was brought to the FCCC's attention that some traders were taking advantage of the programme by increasing prices of items to be sold under the initiative, while others were accepting payments for goods and informing consumers that delivery would be done at later date. Following the investigation, a total of eleven (11) traders were charged for contravening provisions of the FCCC Act 2010 that included 'unconscionable conduct', 'failure to mark price of items', 'sale of price-controlled item above the maximum retail price set by the FCCC', 'failure to furnish information' and, 'accepting payment and failing to supply'. Two (2) traders have been fined \$10,000 each so far.
3. On 28 December 2018, the Fijian Government had announced that FCCC will investigate the Peoples Community Network (PCN) Lagilagi Housing Project. This was one of the major investigations for the Financial Year.
4. The FCCC formed part of the independent Bus Fare Review Committee, headed by the FCCC Chief Executive Officer, Mr. Joel Abraham. The Committee's work continued during the financial year and FCCC provided it's expertise in the review process to conduct public consultation on need for review, assess level of competition in the market, analyse the cost structures within the industry, evaluate the need for price regulation and report back to the Fijian Government.
5. The Energy Fiji Limited made submissions for tariff review. This was conducted through public consultations to seek the ordinary Fijian's views on this and assessment of appropriate financial information.

6. Work began on the Voluntary Compliance Framework with the aim of engaging with the stakeholders to promote self-regulation whereby stakeholders comply with the FCCC Act 2010 by adopting the Framework in their operations. The objectives of the Framework are to:

- promote an efficient partnership within the framework of consumer rights.
- enable the establishment of agreed working relationships based on shared responsibility for better trader and consumer practices.
- allow the parties to work together for the security, protection and safety of all consumers.
- ensure that the requirements of the FCCC Act 2010 are effectively implemented.
- ensure that all staff, employees and management are aware on the implementation of this.
- ensure that the parties will adhere to agreed roles and responsibilities; and
- ensure that parties interact to provide appropriate training.

Businesses have shown good interest in this, including Vinod Patel & Co. Ltd, Prouds, Tappoos, Shop N Save and Newworld IGA.

7. Prudent financial management process and procedures meant that numbers give true and fair view. As such, a fit and proper report has been issued by Office of Auditor General. Complete details are available in the Annual Report. A summary of FCCC's budget is as follows:

Description	2015 (12 months)	FY2016 (7 months only)	FY2016-17 (12 months)	FY2017-18 (12 months)	FY2018-19 (12 months)
SEG 1 – Established Staff	1,085,665	691,231	1,522,049	2,282,812	2,282,812
SEG 2 – Unestablished Staff	-	-	-	-	-
SEG 3 – Travel & Communications	23,555	15,000	29,700	29,700	29,700
SEG 4 – Maintenance & Operations	212,575	135,344	328,506	328,506	448,508
SEG 5 – Purchase of Goods & Services	287,012	182,737	443,538	621,386	633,028
SEG 6 – Special Expenditure	-	-	-	250,000	265,000
SEG 9 – Capital Purchase	-	-	19,896	19,896	19,896
SEG 13 – Value Added Tax	144,793	92,188	142,511	112,454	112,454
Total	1,753,600	1,116,500	2,486,200	3,644,754	3,791,398
Extrapolated to 12 months	1,753,600	1,914,000	2,486,200	3,644,754	3,791,398

Looking Forward

1. In the coming years, FCCC will pursue a trusted collaborative working relationship with the industries and our strategic partners. This will enable effective good governance, risk management, and detection and disruption of restrictive and unfair trade practices.
2. Our effective regulation of markets will continue to play an important role in Fiji's economic growth. FCCC's 2013-2018 Strategic Plan incorporates salient features of Fiji's National Development Plan (2017 – 2021 and 2017 – 2036) to enable inclusive socio-economic development. This resonates with FCCC's inclusive approach to regulatory oversight and making markets work well.
3. Accordingly, we are working in congruence to actively contribute towards the realization of the Sustainable Development Goals (SDG). SDGs 1, 5, 7, 9, 11, 12 and 17 have been identified as being relevant to FCCC.
4. This continued support has seen the review of the FCCC Act 2010, and work commencing on the development of a National Competition and Consumer Policy Framework. This commitment will greatly assist strengthening our sense of direction and boost confidence in achieving our vision to create a dynamic and competitive market in Fiji.

FY2018-2019 Annual Report Queries

1. Could you please provide the following reports (for the period under review):

- i. Last quarterly price restatement for Petroleum and LPG.

The Fijian Competition & Consumer Commission (FCCC) is empowered to regulate the prices of Petroleum Products in bulk and retail quantities in Fiji at the wholesale and retail functional levels via the FCCC (Price Control) (Control of Prices for Food Items) Order 2018.

The FCCC currently conducts quarterly price review to determine the market wholesale and retail prices of regulated petroleum products. The prices may however be reviewed within a quarter based on the trigger effect.

Since international crude oil and refined petroleum products are subject to volatility on daily basis and noting that Fiji is a price taker, petroleum products are price regulated by the FCCC with aim to ensure that the prices of petroleum products are affordable to the Fijian consumers and businesses as well as the regulated prices provide a fair return to the oil companies with assurance of continued supply in the Fijian market.

FCCC's review based on submissions and analysis aligned the regulatory pricing for petroleum products from quarterly to monthly mechanism with the aim to ensure that the volatility of the petroleum prices at world market gets reflected in a shorter span of time in the Fijian economy.

- ii. Price Control Order Study for food items.

On 13 September 2012, FCCC (Control of Prices for Postal Services) Order 2012 was issued for a period of three (3) years based on Fijian Competition and Consumer Commission (FCCC) recommendation to the Minister that a declaratory order controlling prices of postal services be made. Subsequently, on 13 September 2015, the price control order was extended for three years, with deregulation of international mail services.

The current Order, FCCC (Control of Prices for Postal Services) Order 2015 expires on 13 September 2018, unless this Order is varied, extended or earlier revoked under the requirements of Section 40(3) of FCCC Act 2010.

For this review, FCCC concludes that the market conditions has not changed since the 2015 review in terms of the number of players, market power and countervailing powers of consumers for the provision of postal services in Fiji and notes following in relation to the Fijian Postal Industry:

The Postal Service Order expires on 13 September 2018 and as part of FCCC process, the review was based on the assessment of the current level of competition in the provision of postal service in Fiji;

Submissions received from end-users of postal service in Fiji including the relevant Government Ministry, Ministry of Public Enterprises and Consumer Council supports the notion to extend the Price Control Order (PCO);

Competition assessment revealed that Post Fiji Limited is not facing direct competition for letter services and there's a large section of Fiji's rural and remote island communities that rely heavily on postal services;

Although price increases raise the revenue of the postal service provider in view of declining mail volumes in the short term, this price strategy may depress the demand in the long run; and

While recognising the need to remove traditional price regulation on postal service, an element of control on the postal industry is still needed to ensure that Post Fiji Limited products and services are available and affordable to ordinary Fijians.

As part of its process and to ensure procedural fairness, FCCC consulted the Postal stakeholders and users, appropriate ministries and consumer protection agencies.

An unregulated market for Postal Services can increase the possibility of price hikes and abuse of monopoly power which may affect the Fijian Government's objective in maintaining affordable prices and reducing cost of doing business in Fiji.

FCCC is focused on delivering better regulation and reviewing market structures that merit regulation and further creating a level playing field to constrain market power in order to attain continuous improvements in cost efficiency and service quality. In spirit of fair and efficient markets to exist and to balance consumer protection and promotion of industry and trade, FCCC recommends for the need for regulatory oversight of the Postal industry. (For details on the paper, refer Annexure 2 on the endorsed Information Paper).

12. Considering the above, FCCC makes recommendation for an extension of the FCCC (Control of Prices for Postal Services) Order 2015 (for the Ministry to consider and make appropriate decision and gazettal of the Price Control Order.

iii. Electricity Tariff Rate Review.

One of the key objectives of any developing country is to provide affordable access to modern energy services in order to support economic and social development of the society, the business sector and individuals. Fiji has made steady progress towards universal electricity access and utilisation of renewable energy resources for power production. The Government of Fiji seeks to extend these gains to achieve 100% electrification and 81% share of electricity generated from renewable resources by 2020, rising to 99% by 2030.

The review carried out by FCCC based on the submission made by Energy Fiji Limited seeking approval for an increase in electricity tariff rates by 17.27% for all categories of

customers for a period of four (4) years (FY2019-2022) and the introduction of a new tariff structure into two components: (1) Fuel component and (2) Non-Fuel component. FCCC study defined as the amount of revenue a regulated utility must collect from rates charged to consumers in order to recover fair and reasonable cost of doing business. These costs include operating and maintenance expenses, fuel expenses, depreciation expense, taxes and a reasonable return.

Electricity is declared as a regulated industry by FCCC under Section 4 of the Fijian Competition and Consumer Commission Act 2010. Under the Fijian Competition and Consumer Commission (Control of Prices for Retail Supply of Electricity and Ancillary Services) Order 2017, the price for the retail supply of electricity and services are regulated by FCCC. While the FCCC acknowledges EFL's view that a tariff increase could ultimately lead to fund major renewable energy projects in Fiji leading to lower fuel imports and preserve foreign reserves, a significant increase in tariff rates would not be appropriate given the current slow-down in economic activity.

Additionally, the assessments show that proposed capital expenditure does not seem realistic to eventuate compared to the actual spent over the last ten years and revised forecast for 2019.

Through latest technological advancement, lower investment price points and facilitation by EFL through smarter grids, newer (and current) IPPs would become available in the short term to meet the power demands of the country and that this should be part of EFL's plans.

It is the view of FCCC that establishing a tariff that incorporates additional CAPEX and depreciation will make usage unaffordable to the Fijian population as a result EFL should endeavor to streamline CAPEX priorities and increase operational efficiencies. Investments in renewables would be encouraged that are cost-effective with lower upfront investments.

Electricity is an important input into the Fijian economy and its price affects a number of economic agents and macroeconomic factors. A tariff increase has a negative impact on GDP, inflation, households' income and exports. Furthermore, it impacts negatively on Government efforts to alleviate poverty, income inequality and unemployment.

FCCC has analysed the finding and recommended 2.74 % increase in tariff.

2. In the Price Control Order Review, was there a report done for these reviews provided in the Table on page 20 of the Annual Report. If so, then can the Committee be provided with one?

Interconnection PCO Review

The telecommunication sector across the globe has been identified as one with generic effect on almost all other sectors of the economy. Its function in any economy is described as a

strategic one aimed at promoting economic growth and as one that has linkages with other sectors. For the developing world, a modern telecommunications infrastructure is not only essential for domestic economic growth, but a prerequisite for participation in increasingly competitive world markets and for attracting new investments.

Interconnection also has an important influence on any country's capital expenditure policy. Many countries have realized that one of the best ways of stimulating development of the national telecommunication infrastructure and diversifying the range of services available is to encourage the entry of new operators. Their investments provide important benefits, not only in terms of the development of the telecommunication market, but also for development of the economy in general. For such a development policy to become reality, it is indispensable to have an effective interconnection policy. This is why interconnection in many countries is part of the national strategy for promoting competition and attracting foreign investment.

Existing operators rely heavily on using major players network for delivery of services to its customers, to transit calls to the customers of other operators and to allow the access to its own customers. The arrangements for interconnection with between major players are therefore of vital importance in establishing a competitive environment.

Section 39(1) of the Fijian Competition and Consumer Act 2010 states that the Minister on the recommendation of the Commission, by Order declares that the prices for goods and services specified in the order are controlled.

The Commerce (Control of Prices of Interconnection Services Rates) Order 2015 empowers the Commission to control the prices or rates for the supply of Interconnection Services in all quantities and qualities, grades or classes for three (3) years until 21 November 2018.

This FCCC information paper provides an overview of the supply of interconnection services in Fiji, assesses the level of competition in the market, and makes observation on the need (if required) for a Price Control Order for the Supply of Interconnection services in Fiji.

There are strong indicators that the Telecommunications market in Fiji is still not competitive and in the absence of independent rates regulated by FCCC, the Substantial Market Power enjoyed by the ATH group or dominant firm can even be further exploited via unfair trade and restrictive trade practices.

FCCC invites the Minister for Industry, Trade and Tourism to consider recommendation to extend the FCCC (Control of Prices for Interconnection Services Rates) Order 2012 for further three years.

Aeronautical Price Control Order Review

The Fijian Competition and Consumer Commission (Control of Prices for Aeronautical Services) Order was first issued on 22 June 2006 for a three-year period. The Order was

subsequently extended in 2009, 2010, 2013 and 2016 for three years each based on the recommendation from the Fijian Competition and Consumer Commission (FCCC).

The current Order, the Fijian Competition and Consumer Commission (Control of Prices for Aeronautical Services) Order 2016 expires on 22 June 2019 unless it is extended, amended, varied or revoked by the Minister on the recommendation of the FCCC pursuant to section 40(3) of the FCCC Act 2010.

Under the Order 2016, the FCCC fixes and authorises the maximum fees and charges for aeronautical services provided by Fiji Airports Limited (FAL).

Civil Aviation Services is declared as a regulated industry under Section 4 of the Fijian Competition and Consumer Commission Act 2010 (FCCC Act 2010).

As part of its process and to ensure procedural fairness, the FCCC consulted the users of aeronautical services, appropriate ministries and consumer protection agencies before making the appropriate recommendations to the Minister.

For the purpose of this study, the FCCC defined the relevant markets as follows:

- a. The Relevant Product Market: The aircraft movement and air navigational services in the Fiji Islands at the wholesale level and the submarkets with this primary aeronautical services market are the Aircraft movement market and Airfield activities market.
- b. Relevant Geographic Market – The geographic market to be the whole of Fiji, with emphasis on the islands which has access to the airline services.
- c. Functional Level –the wholesale supply of aeronautical services by FAL in Fiji.

Airports are capital intensive businesses, underpinned by their principal role as transport infrastructure providers. As such, airports are deeply linked into most economic activities, with these linkages increasingly driven by growth in leisure tourism and the regional expansion of strategic resource and agricultural activities.

The full review of the Fiji Aeronautical Services tariff was last conducted in 2015. The review concluded that the aeronautical charges in Fiji were substantially lower than the international rates and averages.

The 2015 review and the approved increases in the aeronautical fees and charges has laid the foundation for capital investment to support the Fijians desire to have world class facilities and grow to international standards and the results are clearly visible to major upgrade works and modernisation of the airport facilities.

On 28 December 2016, the Air Navigation Service fee for en-route service unit fee for international traffic was increased based on the submission from FAL on the imminent threat of losing about 40% of the Air Navigation Revenue if they are unable to provide reasonable remittance to the Pacific Island countries whose Upper Airspace that they manage.

During the study, the FCCC has established that aeronautical service is price regulated in many countries. The regulation of aeronautical fees and charges in most countries are regulated by the Independent Utility Regulator.

The independent benchmarking of aeronautical services regulation with similar economies and the other Pacific Island Countries indicates that the aeronautical services in Fiji are one of the lowest in the regions, including New Zealand, Papua New Guinea and American Samoa. The FCCC recognises the following emerging issues for consideration in terms of the Government's National Development Plan (5-year & 20-year) for air connectivity:

- a) International and domestic airports will be modernised and upgraded to international standards to meet the demand for increasing visitor arrivals. This includes the modernisation of the Nadi International Airport, upgrade of the Nadi domestic terminal and Nausori airport, development of a second terminal and a new international airport in Vanua Levu.
- b) Fiji Airways will continue to renew and expand its fleet with leasing of new aircrafts. New air connections and new routes will be explored that will be aligned to the plans for the expansion of new tourist source markets and emerging regions such as Southeast Asia and North and South America.
- c) Domestic air services will be enhanced to support the growth in the tourism industry and more-efficient mobility of all passengers within the country. Major upgrading works will be undertaken at domestic airports and airstrips over the next 20 years including training and education for aviation professionals.

The FCCC notes the following in relation to the Civil Aviation sector:

- a) The provision of aeronautical services in Fiji is a monopoly and is likely to remain so given the size of the economy, huge set up costs and due to the restrictions of economies of transport network and economies scales which is benefited by Fiji Airports Limited.
- b) Fiji Airports Limited has the Substantial Market Power in the supply of aeronautical services in Fiji and benefits from monopoly status in the provision of aeronautical services in the Fijian market.
- c) Competition in the in the supply of aeronautical services at the airports in Fiji is absent. FAL remains 100% fully government owned currently.
- d) The assessment of FAL's financial results demonstrates that FAL's profitability has been positive from the year 2015 onwards and the current and future projects will enable FAL's to reinforce a market position and attract visitors thus increasing FAL's operations and returns on investment. The increase in fees and charges in the year 2015 and further increase in air navigation charges in 2017 is in par with overseas airports is indicative that price regulation is not detrimental.

- e) While the Fijian Government and FAL is committed to policy objective of upgrading and modernisation of the Fijian airports, granting Fiji Airports the right to unilaterally change aeronautical charges is seen to have potentially drastic adverse consequences that could flow to users and consumers of aeronautical services in Fiji, which, could lead to a slowing of tourism growth, affecting not only the country's aviation industry, but also the economy overall.
- f) The FCCC recognises the Fijian Governments' philosophy to encourage business by establishing rational and equitable economic policies, removing unnecessary barriers, creating a level playing field, investing in infrastructure, and making strategic investments that will promote growth and yield big dividends.
- g) The FCCC is also mindful that an appropriate economic regulatory framework is required for airports to prevent abuse of market power. A commitment to striking a balance between the needs for effective oversight, transparency for all airport users and incentives to invest is essential.
- h) The submissions from the stakeholders have called on for the extension of the Aeronautical Services Order as the transport infrastructure and management, particularly the aviation facilities are crucial for the Fiji Islands competitiveness as a tourist destination.
- i) The FCCC after an independent assessment and review of the current price control order is therefore satisfied that the requirements under Section 39 (1) and (2) of FCCC Act 2010 are met to make a recommendation for the Order to be extended as per Section 40(3) of FCCC Act 2010.
- j) Until such time the government's plans for the Fijian Aviation sector materialises, there is a need an independent economic regulation of tariff and other fees and charges by the FCCC to protect the users from the abuse of the monopoly power enjoyed by the service provider.

Steel PCO Review

On 24 October 2012, the Attorney General and Minister for Justice and Anti-Corruption, Public Enterprises, Communications, Civil Aviation and Tourism, Industry and Trade issued the Commerce (Control of Prices for Reinforcement Steel Rods) Order 2012. The Order was subsequently extended in 2015 for the price regulation of the supply of reinforcement steel rod products in Fiji.

The current Order 2015 expires on 13 November 2018, unless it is extended or earlier revoked. The Fijian Competition and Consumer Commission (FCCC) under section 40(3) of the FCCC Act 2010 is required by its own motion to recommend to the Minister that an Order under section 39 of the FCCC Act 2010 be extended, amended, varied or revoked.

Under the Order 2015, the FCCC is empowered to regulate the prices for the following grades of reinforcement steel rods (i) Grade 300 plain/deformed, (ii) Grade 430 plain/deformed; and (iii) Grade 500 plain/deformed.

As part of its process and to ensure procedural fairness, FCCC consulted the reinforcement steel industry stakeholders and users, appropriate ministries and consumer protection agencies before making the appropriate recommendations to the Minister.

For the purpose of this study, the relevant markets were defined by FCCC as follows:

- a) Relevant Product Market – “The sale and purchase of reinforcement steel rods by wholesale or retail in the Fijian Markets”.
- b) Relevant Geographic Market – “The geographic market to be the whole of Fiji, in which the firms concerned are involved in the supply of products or services with the availability of reinforcement steel rods products confined to the specific locations in Fiji”
- c) Functional Level – “The production and distribution of plain and deformed reinforcement steel rods in the Fijian market”.

Steel is an essential input which is used in all types of construction works (residential, non-residential and other construction works). There is no effective substitute to steel as less steel can be used in construction projects, but it cannot be effectively substituted by another product.

Grade 300 and 500 reinforcement steel rods in Fiji is currently manufactured and sold by BlueScope Pacific Steel (Fiji) Pty Limited during this review period.

The Fijian reinforcement steel rods industry is presently operating as a monopoly market however in 2018, the industry has noted emergence of two new market players, that are on the verge of completion of setting up their steel production plants in Fiji by this year or early next year. As such, the steel industry in future will operate in an oligopolistic market structure. The new market players are namely Gurbachan Singh's Steel Mills Ltd, situated at Lakena, Nausori and Dayal Steels Pte Ltd, situated at Yalalevu, Ba. The monopoly status enjoyed by BlueScope Pacific Steel (Fiji) Pty Ltd is likely to be eliminated in future with the emergence of these market players.

Fiji has enjoyed continuous growth in reinforcement steel rods demand since 2016. Sales volume for the two grades has increased by 23.98% over the last three years. This provides a positive indication that the construction sector in Fiji is booming and there exists more demand for reinforcement steel rods as noted from the submissions by major hardware companies.

The Fijian Government's commitment is noted towards improving the welfare of all Fijians via improved services delivery, which will require major capital investment. The Fijian Government is committed to upgrading and construction of new schools, health facilities, in

pursuit of affordable housing, infrastructure improvement, and other capital projects. All these major investments will require the procurement and use of reinforcement steel rods.

There are suggestive indicators that the industry is still not at a competitive level to support deregulation. The market for reinforcement steel rods in Fiji is one that can be characterized by no to low level of competition or likely to have an effect of lessening competition in the future. Price regulation would 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.

The current pricing methodology employed by FCCC provides incentive for the regulated entity to decide on an efficient financing mix and generally, this allows the regulated entity to earn a fair return on efficient invested capital.

The objective of independent price regulation is to establish prices that strike the appropriate balance enabling the regulated entity to earn fair profit and ensuring consumers are not overcharged. Independent economic regulation acts as a powerful catalyst for improving cost-efficiency and delivering cost-effective investment.

The FCCC notes the following in relation to the Fijian Reinforcement Steel Rods Industry:

- a) The provision of reinforcement steel rods product in Fiji represents a significant and essential ingredient in the infrastructure and capacity creation involving substantial direct capital costs.
- b) The reinforcement steel rods market in Fiji is classified as a monopoly market structure during this review period, however with emergence of Dayals Steel Pte Ltd and Gurbachan Singh's Steel Mills Ltd, the reinforcement steel industry will start operating in an oligopolistic market structure situation in future.
- c) The Government has zero rated import duty for the principal raw materials and maintained import duty of finished products at 32 percent in order to encourage growth of local steel industry. Furthermore, the Fijian Government's commitment is noted towards improving the welfare of all Fijians via improved services delivery, which will require major capital investments.
- d) FCCC also notes that the quality of the inferior steel rods imported into Fiji is a concern and will result in substandard structures and will have a negative impact particularly on the construction industry.
- e) Existence of suggestive indicators that the industry is still not at a competitive level to support deregulation. This finds support in:
 - Substantial market power held by BlueScope Pacific Steel (Fiji) Pty Ltd with market share of 100% at this review period.
 - The industry is highly capital intensive in nature, as it is noted that there are significant capital outlays involved in setting up or acquiring a steel plant and it would be

challenging to secure an appropriate return on the capital expenditure in the counterfactual where BlueScope is operating.

- Price control has been effective in protecting customers during periods of high demand such as arising from constructions booms due to developments and investments in Fiji, recoveries from natural disasters and shortage of reinforcement steel rods due to break-down of machines.
 - Further to the social protection principle of assisting consumers to cope against the effects of inflation, price regulation enforces compliance and monitoring rather than leaving price to be determined by market forces where retailers engage in unfair trading and price practices.
 - The fact that internationally steel has always been an oligopolistic industry sometimes has raised concerns about the anticompetitive behaviours of large firms that dominates the industry. With the two new players, such a market may be prone anti-competitive conduct in the near future and a constant monitoring of the sector may be warranted.
- f) The issuance of the FCCC (Control of Prices for Hardware items) Order 2016 with the objective to ensure affordability and boost the construction sector, providing the platform for home improvements and enhance the welfare of all the Fijians.
- g) The recommendation and support made by major stakeholders including BlueScope Pacific Steel (Fiji) Pty Ltd for the extension of the FCCC (Control of Prices for Reinforcement Steel Rods) Order 2015 of the current arrangement which is supportive of manufacturing and even competition amongst distributors and end consumers. In addition, price regulation is one key factor for reasonable market pricing to ensure that other players in the market are held equally liable to produce and supply equal or better characteristics rebar into the Fiji market.
- h) In view of the above assessment, the FCCC recommends the FCCC Board and the Ministry for Industry, Trade and Tourism to consider the extension of the FCCC (Control of Prices for Reinforcement Steel Rods) Order 2015 for a further three years.
3. What were the challenges faced in the first year of your 2018-2023 Strategic Plan?
- Challenges were faced with major factors affecting the Fijian market, including international factors affecting the world economy, such as conflicts, supply chain shocks, natural hazards and weather conditions, changes in local economic conditions, natural disasters, and ever-changing consumer views.
4. Page 13 Note 3 on the financial states that there has been a substantial increase in the Board allowance, please explain this.

Annual allowances were increased for Board of Commissioners consummate to their judicial responsibilities under the FCCC Act 2010.

5. Updates on the Landlord & Tenants Bill

FCCC had a public consultation in 2017 regarding the Landlord and Tenants Bill. A report was then submitted to MCTTT. Taking into consideration on the adverse effects of the COVID-19 pandemic towards landlords and tenants, it was recommended by the committee spearheaded by MCTTT to conduct a further consultation to ensure that it reflects contemporary issues. Additionally, provisions of the respective clauses were being discussed in the technical working group to ensure it was in Fiji's context.

6. What are your views on amalgamating FCCC and Consumer Council of Fiji?

Amalgamating the two organizations would further enhance and promote the consumer protection laws in Fiji. The amalgamation can clearly demarcate the advocacy and enforcement roles between the two organizations. Stronger relationships between the 2 organizations would also strengthen consumer protection laws in Fiji and will create dynamic and effective market for business to grow and offer more protection to consumers.

7. How has the journey been so far in achieving the Strategic Plan?

FCCC is progressing well with the achievements of its strategic plan as we have developed frameworks for the strategic objective to match with and meet the ever-changing operating environment. FCCC has worked towards organizational excellence and strived to achieve the required goals under the strategic goals as a regulatory body with continuous improvement and innovation towards our operational systems, strategies, and processes to deliver excellent service to the fellow Fijians. We consider our workforce as our strategic asset who continuously work to explore, design, and implement new ways of working, communicating professionally with integrity and innovate to better FCCC. As a responsible statutory regulatory body FCCC continues to be committed towards the social responsibilities by conducting community service, awareness, and programs to better the lives of everyday consumers and fellow Fijians. The Strategic objectives is further achieved through our creative and innovative team and FCCC's commitment towards organizational excellence.

8. Worst 3 industries in terms of complaint – what plans are in place to resolve the issues that have been identified?

FCCC has implemented the various programs in place and has been continuously working with construction industry, retail sectors and second-hand spare parts markets to resolve and minimize complaints from the consumers. We have implemented community and trader

awareness programs with businesses, voluntary compliance frameworks with retail sectors and more industry dialogue to ensure that traders are aware of FCCC Act 2010. FCCC has also strengthened the enforcement responsibilities that include monitoring, inspection and complaints handling.

9. Page 13 - Note 3 Explain variances and substantial increase in 2019

Attributed to increase in staff from 61 in 2018 to 71 in 2019 to enable FCCC to carry out its additional functions effectively and hire of two (2) fellows from Overseas Development Institute (ODI) to assist FCCC in regulatory policy making and competition assessments & policy making.

10. Page 13 – Note 4 and Note 5 Explain substantial variance

Note 4 – increase is due to housing allowances paid for the two ODI fellows.

Note 5 – increase is due to the following:

- New office space leased in Suva and Lautoka to support expansion of operations and ease access to the Fijian public.
- Major special investigations carried out, including Lagilagi Housing Public Inquiry; surveillance of regulated mechanical harvester rates in the cane fields; market surveillance for renewal of Food Order that included basic food items, petroleum products and pharmaceuticals; and continuation of the bus fare review and TELS investigation into bogus tenancy agreements and illegal rent increase from prior year.
- Appointment of panel of lawyers to enable FCCC to have access to legal expertise in criminal prosecution and seek opinions on special matters
- Increase in frequency of tours to outer islands, maritime regions and rural areas in the efforts to increase access to FCCC functions for Fijian public in remote areas.

11. Page 14 - Note 6 Explain increase in Professional Fees, IT Support Cost and Cleaning

i. Professional fees

Increase is attributed to:

- Engagement of staff from BDO on secondment in the position of Senior Accountant with the Finance Department for three (3) months to assist the department in supporting the ever-increasing operations. The position of Senior Accountant has been internalized on the organizational structure since then, and it is a full-time role now.
- Engagement of Netcare IT Services for strategic review of FCCC's IT infrastructure that has enabled FCCC to plan its digital growth.
- Engagement of Price Waterhouse Coopers (PWC) for FCCC's human resource capacity needs assessment that has enabled FCCC to plan its human resource needs in line with its Strategic Plan.

ii. IT Support Cost

Increase reflects FCCC's focus on digital transformation to revolutionize and automate FCCC's functions for greater efficiency and effective service delivery to the Fijian public. As such, IT support, maintenance, hosting and other charges have increased for electronic pricing software, accounting software, payroll software and case management software.

iii. Cleaning

Expansion of operations to enable more effective delivery of FCCC services to stakeholders and Fijian public led to additional premises being leased and increase in

staffing. This raised the need for proper hygiene services.

12. Page 17 - Note 12 Explain increase FNU Levy & PAYE

i. FNU Levy

Levy for January to June 2019 has been paid in July 2019. The balance shows amount for July 2019 only, which will be paid in January 2020 in accordance with the FNU Levy payment schedule.

ii. PAYE

Increase in liability balance due to increase in number of full-time employees from 61 to 71 and three (3) fortnightly pay runs processed during July 2019 compared to only two (2) in July 2018.

FY2016-17 and FY2017-18 Annual Report Recommendations

1. Implementation and reporting against stated strategic objectives of FCCC's five-year strategic plan.

Implemented and is an ongoing activity. This is in progress.

2. Data trend of at least five years to be included in future reports.

The recommendation is well noted and FCCC may consider incorporating this in future reports.

3. Progress of the proposed draft Landlord & Tenants bill with stakeholders concerns to be thoroughly considered.

FCCC had a public consultation in 2017 regarding the Landlord and Tenants Bill. A report was then submitted to MCTTT. Taking into consideration on the adverse effects of the COVID-19 pandemic towards landlords and tenants, it was recommended by the committee spearheaded by MCTTT to conduct a further consultation to ensure that it reflects contemporary issues. Additionally, provisions of the respective clauses were being discussed in the technical working group to ensure it was in Fiji's context.

4. Formulation of more effective awareness strategies including collaboration with various stakeholders such as CCF, FIU, MCTTT's Department of Cooperatives and Ministry of iTaukei Affairs.

FCCC has entered into MOUs and SLA's with agencies such as Fiji Commerce and Employers Federation (FCEF), REALB, Project Abroad Fiji, Asia Pacific Applied Economics Institute, UNDP, I-Taukei Land Trust board, Ministry of Health, including information sharing with ACCC and NZCC. This is an ongoing activity as collaboration with the agencies is important.

5. Information packages to be prepared and disseminated regularly for all new and existing businesses on the various requirements under the Act.

This has been started this process through the Voluntary Compliance Framework. Furthermore, through MOU with Ministry of Health, FCCC has been assisting in Business Assistance scheme. This is an ongoing activity.