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**LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM - Session I: Competition
Law Enforcement in Informal Markets**

- Contribution from Jamaica -

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This Note his attached document from Jamaica is circulated to the Latin American and Caribbean Competition Forum (LACCF) FOR DISCUSSION under Session I at its forthcoming meeting to be held on 14-15 October 2026 in Buenos Aires, Argentina.

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Session I: Competition Law Enforcement in Informal Markets

- Contribution from Jamaica –*

1. Introduction

1. The Jamaica Fair Trading Commission (JFTC) welcomes the opportunity to contribute to Session I of the 2026 OECD-IDB Latin American and Caribbean Competition Forum on Competition Law Enforcement in Informal Markets.¹ This topic is particularly relevant to Jamaica, where informal economic activity is a longstanding and significant feature of the economy and has important implications for market structure, competition, market access, and consumer welfare.

2. The JFTC has considered the relationship between informality and competition policy for more than two decades. In 2015, the JFTC's Executive Director presented "Impact of the Informal Sector on Trade & Competition" to the Working Group on Trade and Competition in Latin America and the Caribbean.² This work was subsequently developed further in Jamaica's 2018 contribution to the Latin American & Caribbean Competition Forum (LACCF) on "The Informal Economy in Latin America and the Caribbean: Implications for Competition Policy". The JFTC's more recent market studies, investigations, advocacy initiatives and enforcement experience provide an opportunity to update that earlier analysis and to consider more specifically the practical challenges of enforcing competition law where formal and informal economic activity coexist.

3. For purposes of this contribution, the JFTC adopts the definition of the informal economy reflected in the OECD's call, based on the International Labour Organization's approach: economic activities undertaken by workers and economic units that are not, in law or in practice, covered or sufficiently covered by formal arrangements. This includes activity outside the formal reach of the law, activity within the formal reach of the law where the law is not effectively applied or enforced, and activity where compliance is discouraged by inappropriate, burdensome or excessive costs.

4. This definition is useful in the Jamaican context because informality takes a variety of forms. It may involve an unregistered business, a formally registered enterprise that does not consistently comply with tax or regulatory requirements, an individual operating a business alongside formal employment, or an enterprise operating within a regulated market but outside effective regulatory oversight. The JFTC does not regard informality itself as synonymous with illegality or as an infringement of competition law. An informal business may be an important source of competitive pressure, while its informal status may simultaneously create competitive-neutrality concerns by allowing it to avoid costs imposed on compliant competitors.

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1 Organisation for Economic Co-operation & Development (OECD) Directorate for Financial & Enterprise Affairs Competition Committee – Latin American & Caribbean Competition Forum Call for Contributions dated May 4, 2026.

2 The Latin American & Caribbean Economic System (SELA) & the United Nations Conference on Trade & Development (UNCTAD).

5. The central lesson from Jamaica's experience is therefore that competition authorities should neither ignore informal economic activity nor treat informality itself as a competition-law offense. Instead, competition authorities should incorporate informality into competition analysis whenever it materially affects competitive constraints, market definition, market power, barriers to entry, competitive neutrality, or the effectiveness of remedies.

1.1. Measuring the Size and Importance of Informal Markets

6. Measuring informal economic activity presents a fundamental challenge for competition authorities because informal businesses are, by definition, less likely to appear in conventional administrative datasets. A competition authority may therefore observe only the formal portion of a market even where consumers and suppliers interact within a considerably broader competitive environment.

7. The JFTC does not conduct economy-wide surveys specifically to measure the informal economy. Instead, it combines national statistical information, information from other government agencies, direct engagement with market participants, complaints, market studies, and investigative work to identify and, where possible, estimate the extent and significance of informal activity in particular markets.

8. Historical estimates have placed Jamaica's informal economy at approximately 35 to 43 percent of the country's Gross Domestic Product (GDP) and accounts for about 40 to 60 percent of total employment. The JFTC treats this as an indication of the issue's scale rather than a current estimate. For competition enforcement, the JFTC considers that an economy-wide estimate is not necessarily the most useful measure. The relevant question for competition analysis is whether informal activity is sufficiently significant within a particular relevant market to affect competitive conditions.

9. The JFTC therefore favours a sector-specific and market-specific approach. Depending on the circumstances, it may be necessary to establish the number of informal suppliers, their approximate sales or output, geographic coverage, customer base, products or services supplied, pricing, ability to expand, and the extent to which consumers regard their offerings as substitutes for those of formal firms. The JFTC must also consider whether regulatory and compliance differences materially affect the competitive position of formal and informal suppliers.

10. Generally, market data on informal sectors is not available, which presents challenges in instances where conduct is being investigated, or market studies are being undertaken by the JFTC. Therefore, qualitative data must be used.

11. A range of information sources may be used. These include complaints from consumers and businesses; surveys and questionnaires; interviews with suppliers, customers and industry associations; customs and import data; business registration information, subject to applicable confidentiality and information-sharing requirements; licensing and regulatory records; information from sector regulators and government ministries, or agencies; household expenditure and labour-force surveys; information supplied by formal firms about their competitors; online marketplaces and social-media activity; and information obtained through legally authorised investigative processes. The JFTC's earlier work specifically identified Jamaica Customs Agency (JCA), the Companies Office of Jamaica (COJ), the tax authority, the JFTC's parent Ministry and other government agencies as important sources of information concerning informal activity.

12. An important practical lesson from the JFTC's experience is that informal activity is often best identified indirectly. Informal operators may not maintain auditable accounts, but formal wholesalers, manufacturers, distributors and retailers may have information concerning their activities. Similarly, customs and border patrol records may reveal imports that subsequently enter informal distribution channels, while sector regulators may have information about licensed operators that can be compared with information obtained through complaints or market enquiries concerning unlicensed operators.

13. There are, however, significant limitations. Informal businesses may conduct transactions predominantly in cash, may not maintain invoices or systematic accounts, and may combine household and business finances. Some have no fixed business premises, bank account, employee records or formal registration. Moreover, operators may be reluctant to provide information to a competition authority because of concerns that disclosure could expose them to tax, licensing, labour, health or safety consequences.

14. These limitations have implications. First, conventional market-share calculations may substantially understate the competitive significance of informal suppliers. Second, competition authorities must ensure that information collected for competition purposes is handled consistently with applicable confidentiality, due-process and information-sharing requirements. Competition investigations should not become a substitute for tax, licensing, or other regulatory enforcement, or appear to align with other regulatory enforcement agencies.

15. Inter-agency cooperation is therefore critical. The JFTC engages with other government agencies on competition matters, including the JCA, COJ, Statistical Institute of Jamaica (STATIN), Planning Institute of Jamaica (PIOJ), sector regulators and the JFTC's parent Ministry, the Ministry of Industry, Investment and Commerce (MIIC), among others. However, Jamaica does not currently have a dedicated formal information-sharing framework specifically for informal-sector data between the JFTC and these bodies. Cooperation has generally occurred on a case-by-case basis, depending on the nature of the matter and the agencies' mandates. Differing statutory mandates, confidentiality and data-protection considerations, resource constraints and the absence of formal information-sharing arrangements can limit deeper cooperation.

16. The JFTC considers that establishing appropriate formal mechanisms for information sharing, with suitable safeguards, would materially improve the ability of competition authorities to understand informal markets. In practice although the JFTC has few formal cooperation agreements in place, there is a tendency to cooperate and share information.

1.2. Factoring Informality into Competition Analysis

17. The JFTC's approach is that competition law should generally follow the economic activity and its effect on competition, rather than the registration or formal status of the undertaking. The absence of a formal corporate structure, business registration or written agreement does not necessarily place economic activity outside competition analysis.

18. This principle is particularly important because formal and informal firms do not necessarily operate in separate markets. Jamaica's experience has demonstrated circumstances in which informal operators purchase goods from formal wholesalers and retail outlets such as supermarkets and resell them to consumers. There are also markets in which informal operators compete directly with formal businesses, particularly small retailers and service providers that focus on specific market segments.

19. At the same time, the presence of informal suppliers does not automatically mean that they belong in the same relevant market as formal firms. The appropriate approach is fact-specific. The JFTC considers demand-side substitutability and supply-side constraints, while paying particular attention to factors that may be especially relevant at the formal-informal interface. These include price, product quality, reliability, location and accessibility, health and safety standards, guarantees and warranties, branding, after-sales service, payment arrangements, consumer perceptions, access to credit, regulatory compliance and consumers' willingness and ability to switch between formal and informal suppliers.

20. For example, the JFTC's earlier work found that informal grocery and apparel traders operating in inner-city and lower-income communities did not necessarily compete directly with medium and large formal businesses serving different geographic and demographic segments. In other circumstances, particularly in apparel and footwear, informal suppliers competed directly with small formal retailers. The JFTC has therefore cautioned against automatically including or excluding informal suppliers from the relevant market.

21. Where data permit, conventional competition-analysis tools, including consideration of a Small but Significant and Non-transitory Increase in Price (SSNIP), can be used to assess whether consumers would switch from formal to informal suppliers following a price increase. In practice, however, the data limitations associated with informal activity often make a formal SSNIP exercise difficult. The JFTC may consequently rely on a broader assessment of competitive constraints, including consumer behaviour, barriers to entry, pricing patterns, geographic reach, quality differences, capacity and the ability of informal suppliers to expand.

22. The key distinction is between market presence and competitive significance. A large number of informal businesses does not necessarily mean that a market is competitive. Individual informal firms may be very small, geographically constrained or unable to expand their output. Conversely, a relatively small number of informal firms may exert considerable competitive pressure if they can readily expand and attract customers when formal firms raise prices.

23. The JFTC's 2023 assessment of the Liquefied Petroleum Gas (LPG) sector provides a useful illustration of this principle. In considering the merger transaction of the two largest LPG suppliers, the JFTC examined whether prospective entry would provide an effective competitive constraint. Although entry was considered likely, expansion was potentially constrained by factors including access to storage facilities and the dealer network. The market was characterized by many informal retailers which 'clouded' the reach and size of the wholesalers' network as well as the geographic sub-markets. The lesson applies to informal markets: the number of suppliers matters less than whether they have the capacity and incentives to expand enough to constrain incumbent firms.

24. The assessment of market power must therefore consider market shares where reliable estimates exist, but also the number and strength of competitors, barriers to entry and expansion, access to essential inputs and distribution, customer switching, geographic reach, product differentiation, capacity constraints, the ability of informal suppliers to expand, the sustainability of their operations, the likelihood of formalization and regulatory differences affecting costs.

1.2.1. Sector-specific considerations

25. Informality affects competition differently across sectors. In retail, informal suppliers may compete closely with formal businesses because consumers can switch

relatively easily between outlets. In pharmaceuticals or other highly regulated sectors, quality, safety, licensing and professional requirements may substantially reduce substitutability. Notably, although the LPG sector is highly regulated at the wholesale level, it is not regulated at the retail level where informal operators supply a very high number of households across Jamaica. In transportation, informal operators may provide close substitutes for formal services while operating under materially different safety and regulatory conditions.

26. The JFTC's work on ride-hailing is illustrative. Its 2025 study considered platforms including Uber, inDrive, Ride Jamaica and 876OnTheGo and examined the interaction between technology-driven mobility models and traditional taxi services. The study recognised that many drivers operate as independent microbusinesses and that some contracted drivers remain within the informal sector. Rather than treating their informal status as a reason for exclusion, the JFTC examined the effects of the new business model on competition, efficiency, consumer choice, safety, labour arrangements and regulation. The study found that ride-hailing can reduce transaction costs, improve the matching of supply and demand and increase consumer choice, while simultaneously raising regulatory and labour-market considerations. The JFTC's study is presently being used by Jamaica's Ministry of Transport to inform a ride-hailing policy which could eventually evolve into legislation.

27. The experience demonstrates that technological change can blur the traditional distinction between formal and informal economic activity. Competition authorities must therefore remain capable of assessing new business models according to their actual economic effects rather than relying solely on conventional regulatory classifications.

1.2.2. Competitive neutrality

28. A further consideration is competitive neutrality. An informal operator may have lower effective costs because it does not incur taxes, licensing fees, labour obligations, health and safety costs or other regulatory expenses borne by formal competitors. This can create a competitive advantage that is unrelated to productive efficiency.

29. The JFTC considers it important, however, to distinguish between an informal firm that competes successfully because it has developed a more efficient business model and one whose apparent cost advantage arises primarily from avoiding obligations imposed on otherwise comparable formal firms. The latter is fundamentally a regulatory and competitive-neutrality issue and should not automatically be treated as a competition-law infringement.

30. Indeed, using competition law to penalize informality itself could have unintended consequences. It could eliminate low-cost supply, reduce competitive pressure and increase prices, particularly for lower-income consumers who rely on informal suppliers. The appropriate response may instead involve simplified registration, proportionate licensing, improved tax administration and targeted enforcement of sector-specific standards.

1.2.3. Informal firms as victims of anti-competitive conduct

31. Informal firms should also be recognized as potential victims of anti-competitive conduct rather than only as potential offenders. The JFTC's experience in the LPG sector illustrates this point. A new entrant complained about exclusion from an informal arrangement for retrieving and surrendering empty LPG cylinders. The JFTC found that arbitrary exclusion from the independent dealer network could impede the entrant's expansion and discourage competition in the residential LPG market.

32. The case illustrates why competition authorities should look beyond conventional written contracts. Informal networks, industry customs, reciprocal arrangements, dealer practices, and unwritten understandings can have significant effects when they control access to customers, inputs, infrastructure, or distribution channels.

33. This is particularly important in developing economies, where access to established networks may be as important as access to physical infrastructure. An informal arrangement such as the LPG cylinder exchange arrangement that appears innocuous in isolation may become a material barrier to entry where participation in that arrangement is effectively necessary to compete.

1.2.4. Remedies

34. Informality also has implications for the design of remedies. A remedy imposed exclusively on formal firms may be ineffective if informal suppliers constitute a significant part of the competitive environment. Conversely, imposing complex compliance and reporting obligations on very small businesses may unintentionally increase their costs and strengthen larger formal competitors. Further, if such costs are ‘forced’ upon these businesses, it is likely to result in non-participation in data gathering and information sharing.

35. The JFTC’s LPG experience again illustrates the importance of addressing the underlying mechanism restricting competition. The JFTC recognised that access to the dealer network and cylinder-retrieval arrangements affected the ability of entrants to expand and subsequently engaged the relevant Ministry and market participants towards a more formal arrangement for cylinder retrieval and surrender.

36. In markets with substantial informality, the JFTC would therefore consider whether the remedy reaches the relevant competitive constraint, whether informal operators can realistically comply, whether compliance requirements create additional barriers to formalization, whether the remedy can be monitored effectively, whether it disproportionately benefits larger formal firms, whether distribution access must be addressed, and whether regulatory reform should complement or replace a competition-law remedy.

37. The JFTC’s experience also suggests that where informal activity serves consumers who are poorly served by formal businesses, long-term solutions may sometimes involve reducing barriers to entry and formalization rather than relying exclusively on punitive enforcement.

1.3. Enforcing Competition Law in Informal Markets

38. The JFTC’s position is that the JFTC enforces competition law in all markets, including those involving informal businesses, where the relevant conduct falls within the scope of the Fair Competition Act (FCA). The JFTC’s jurisdiction concerns economic activity and anti-competitive conduct, rather than whether an undertaking is registered, licensed, or tax compliant.

39. The absence of registration or the illegality of an underlying business activity does not necessarily prevent the JFTC from considering competition issues. This principle was considered in the JFTC’s experience concerning an illegal DSS satellite service, where the issue arose as to whether the JFTC could investigate a business engaged in an illegal operation. The JFTC determined that a legitimate business offering an illegal service could nevertheless fall within the ambit of the FCA and therefore be subject to competition-law investigation. The important distinction is that the JFTC may investigate the competition

implications of conduct without assuming responsibility for enforcing the separate law governing the underlying illegal activity.

40. Similarly, the fact that an informal enterprise does not comply with tax, licensing or other regulatory requirements does not, by itself, establish an infringement of competition law. The JFTC does not regard competition enforcement as a substitute for tax, licensing, labour, health, safety or other regulatory enforcement.

41. This distinction is particularly important where informality creates a cost advantage. Tax evasion, failure to obtain licenses or non-compliance with regulatory standards may distort competitive neutrality, but the existence of the underlying violation and its economic consequences must be distinguished from the question of whether competition law itself has been breached.

1.3.1. Investigative and procedural challenges

42. Enforcement involving informal operators presents significant practical challenges. These include identifying the relevant undertaking, locating businesses without registered premises, establishing ownership, obtaining reliable contact information, conducting interviews, serving legal documents, obtaining financial and transactional records, verifying sales volumes, establishing agreements that may be unwritten, distinguishing independent conduct from coordinated conduct, protecting confidential information and ensuring procedural fairness and rights of defence.

43. The JFTC has statutory investigative powers to obtain information and, where legally authorized, to enter and search premises, and examine documents. However, formal investigative powers cannot entirely resolve the information problem where economic activity is deliberately or naturally conducted outside conventional record-keeping systems.

44. This is particularly relevant to suspected collusion. Informal agreements may not be documented and may instead be facilitated through personal relationships, telephone communications or other channels that leave little conventional documentary evidence. The JFTC's position is nevertheless that an agreement need not take the form of a formal written contract to raise competition concerns.

1.4. By-object conduct and effects-based conduct

45. The JFTC considers that an important distinction can be made between hard-core anti-competitive conduct, such as price fixing and bid rigging, and conduct where the competitive effects depend more heavily on market structure.

46. In cases involving clear price fixing, bid rigging or other prohibited coordination, precise measurement of the informal market may be less critical because the central issue is establishing the prohibited agreement or concerted practice. This can be particularly important where reliable market-size data are unavailable.

47. By contrast, cases involving abuse of dominance, foreclosure, predatory pricing, exclusionary agreements or mergers generally require a more detailed assessment of market definition, market power and competitive effects. In such cases, the size, structure and ability of informal suppliers to constrain the conduct of formal firms become particularly important.

48. The distinction allows competition authorities to allocate scarce investigative resources according to the economic significance of the conduct, while recognizing that informal activity can become critical to assessing market power and competitive effects.

1.4.1. Predatory pricing and informal cost advantages

49. Informality can also complicate the assessment of below-cost pricing. An informal business may appear to have a lower cost base because it does not incur the same tax, licensing, labour or regulatory compliance costs as a formal competitor. A comparison based solely on observed accounting costs could therefore produce a misleading result.

50. The JFTC's earlier work recognized this issue and, in relevant circumstances, considered the cost of government obligations when determining the appropriate cost benchmark. The broader lesson is that cost-based tests should distinguish genuine efficiency from an apparent cost advantage arising from non-compliance with obligations imposed on other market participants.

51. At the same time, the mere fact that a business sells below the price charged by formal competitors does not establish predatory pricing. Competition concerns arise where the relevant legal and economic conditions for predation are satisfied, including circumstances in which a dominant undertaking uses below-cost pricing to eliminate competitors with the prospect of subsequently charging higher prices.

1.4.2. Fines and penalties

52. The institutional framework is relevant. The JFTC does not have the authority to impose administrative fines or penalties; the Courts impose sanctions for breaches of the FCA. Notably, the JFTC may recommend appropriate fines, penalties or mechanisms to mitigate anti-competitive effects, all of which are based on financial information. The absence of reliable financial records creates difficulties where sanctions depend upon information concerning turnover, sales or economic benefit. The JFTC has not developed a separate published methodology specifically for calculating competition-law penalties against informal businesses. This situation has not arisen because the JFTC has not yet brought an action against an informal business before the Court.

53. The JFTC considers that the lack of accounting records should not create immunity from competition law, particularly in serious cases such as price fixing or bid rigging. Where reliable turnover information is unavailable, consideration could be given to alternative indicators such as transaction volumes, capacity, duration of the conduct, market participation and economic benefit, subject to proportionality, transparency and due process.

1.4.3. Interaction with other legal violations

54. Competition law enforcement in informal markets frequently intersects with other areas of law. An informal business may simultaneously be unregistered, non-compliant with tax obligations, operating without a required licence, failing to meet health and safety requirements, employing workers outside formal arrangements and participating in otherwise legitimate competitive activity.

55. The JFTC considers that these matters should not automatically be conflated. Competition law protects the competitive process, while tax, licensing, labour, health and safety and other regulatory agencies have distinct mandates.

56. At the same time, violating another law may be economically relevant to competition. For example, systematic avoidance of regulatory obligations may give a firm a significant cost advantage, affect entry conditions or alter competitive neutrality. The appropriate analytical framework is therefore to distinguish between (i) the existence of a separate legal violation, (ii) the economic consequences of that violation for competition, and (iii) whether competition law itself has been breached.

57. Where relevant non-competition violations are identified during JFTC work, the JFTC's approach has generally been to share or refer the relevant information to the appropriate agency and to engage in advocacy, rather than to attempt to enforce another agency's legislation through the FCA.

1.4.4. Inter-agency and International Cooperation

58. The Jamaican experience shows that a competition authority cannot deliver effective competition policy in informal markets alone. The factors generating and sustaining informality frequently lie outside competition law and involve taxation, registration, licensing, transportation, health and safety, labour regulation, access to finance and broader regulatory policy.

59. The JFTC has engaged with government agencies and sector regulators on competition matters, including those involving informal market participants. Its work with the MIIC, sector regulators and other public bodies reflects the JFTC's broader competition-advocacy mandate. The JFTC's history includes numerous collaborative activities with sector regulators, including those for telecommunications, banking and finance, standards, trade and importation matters, energy, and radio and television content.

60. The JFTC's 2020 study of the mobile telecommunications market, undertaken at the spectrum regulator's request, and the 2022 merger review involving two gaming operators, which involved collaboration with the gaming regulator, are examples of cooperation with sectoral authorities. The LPG and ride-hailing experiences similarly demonstrate that competition issues may require coordination with policymakers and regulators because market access and competitive conditions cannot be separated from the relevant regulatory framework.

61. The JFTC has also benefited from international and regional cooperation and technical assistance, including support from the Inter-American Development Bank and engagement with regional and international competition institutions. Such cooperation is valuable for developing methodologies, strengthening enforcement capacity, and sharing experience in markets where conventional competition tools are difficult to apply.

62. The main impediments to deeper cooperation are the absence of formal information-sharing arrangements specifically addressing informal activity, differing institutional mandates, confidentiality and data-protection considerations, resource constraints and the need to maintain appropriate procedural safeguards.

1.4.5. Competition Advocacy and the Formalization Challenge

63. The JFTC's experience suggests that competition enforcement alone cannot address the competitive consequences of informality. Many underlying drivers of informality are structural and may include high compliance costs, complicated registration procedures, inappropriate licensing requirements, limited access to finance, and regulatory arrangements that impose disproportionate burdens on small businesses.

64. Competition advocacy is therefore an essential complement to enforcement. The JFTC has consistently engaged small and micro businesses through public education and outreach, including MSME Business Roadshows funded by the Inter-American Development Bank, which engage entrepreneurs on market access, competitive input prices, innovation, and expansion, while providing information on practices such as abuse of dominance, exclusive dealing, and market sharing. This engagement continues, reaching businesses in agriculture, agro-processing, food and beverage, hospitality, logistics, professional services, banking and real estate, among others.

65. The JFTC has also published material addressing competition and small businesses. Its 2024 article “Competition Law Benefits Small Businesses” highlighted how practices such as predatory pricing and exclusive dealing can disadvantage smaller competitors, and explained the role competition law can play in preserving opportunities for small businesses to participate in markets. Such advocacy is particularly relevant to informal operators because many operate as micro or small businesses and may not otherwise recognise competition law as a source of protection against exclusionary conduct.

66. The JFTC’s 2025 work on credit reporting provides another important perspective. The JFTC identified barriers to data access and accuracy that contributed to financial exclusion and recommended, among other measures, consideration of informal sources of credit information. Improving the ability of small and informal businesses to establish credit histories can facilitate access to finance, investment and expansion and may help bridge the formal-informal divide.

67. The objective should therefore not be to eliminate informal economic activity through competition enforcement. Rather, competition policy should help ensure that markets remain open, contestable and competitive while government progressively reduces barriers to formalisation and ensures that businesses compete on the merits rather than through regulatory evasion.

1.4.6. Priorities for Reform

68. Based on Jamaica’s experience, the JFTC considers that several reforms would strengthen competition enforcement in markets with significant informal participation.

69. First, formal mechanisms for appropriate information sharing should be developed among the JFTC, tax authorities, customs, business-registration authorities, statistical agencies and sector regulators, subject to confidentiality, privacy and due-process safeguards.

70. Second, Jamaica could develop regular sector-specific surveys of informal activity in markets where informality is likely to materially affect competition. The objective should not necessarily be to produce a single economy-wide estimate, but to improve the information available for specific competition assessments.

71. Third, competition authorities should make greater use of alternative and digital sources of information, including online marketplaces, social-media advertising, import records and other data capable of identifying informal suppliers and estimating their competitive significance.

72. Fourth, authorities should develop alternative methods of estimating sales and market shares where reliable turnover data are unavailable. Capacity, transaction volumes, procurement records, imports, customer surveys and information from formal counterparties may provide useful indicators.

73. Fifth, legislative or methodological reforms could provide greater flexibility in penalty assessment where informal undertakings lack reliable accounting records, while maintaining proportionality, transparency and due process.

74. Sixth, Jamaica should continue strengthening the JFTC's investigative powers and institutional framework through the ongoing review of the Fair Competition Act. A modernized legislative framework should provide the JFTC with an enforcement toolkit suited to contemporary markets and clarify and strengthen its ability to investigate anti-competitive conduct involving different forms of economic organization.

75. Seventh, government should undertake greater regulatory impact assessment from a competition perspective, particularly where new licensing, registration, taxation or operating requirements may disproportionately affect small firms or unintentionally encourage businesses to remain informal.

76. Finally, competition authorities should continue education and outreach targeted at informal and micro businesses, ensuring that such firms understand both their responsibilities under competition law and their rights as participants in competitive markets.

2. Conclusion

77. Jamaica's experience demonstrates that informality is not a peripheral characteristic of the markets considered by the JFTC. It is an economic feature that can affect market definition, competitive constraints, market power, entry, competitive neutrality and the effectiveness of remedies.

78. The JFTC's experience also demonstrates that there is no single relationship between formal and informal businesses. Informal suppliers may be important competitors that constrain formal firms and provide affordable goods and services to consumers. In other circumstances, informal suppliers may be too small, geographically constrained or unable to expand to constitute a meaningful competitive constraint. Additionally, formal businesses oftentimes engage in informal arrangements for their benefit. Informality may also provide an artificial cost advantage where businesses avoid taxes or regulatory obligations, while informal networks and arrangements can themselves create barriers to entry.

79. The appropriate response is therefore neither to exclude informal businesses from competition analysis nor to treat informality itself as an infringement. The economic significance of informal activity must be assessed on a market-by-market basis, with particular attention to whether informal suppliers actually constrain the behaviour of other market participants.

80. The JFTC's experience with LPG demonstrates how informal arrangements can affect access to critical distribution infrastructure and impede entry. Its work on ride-hailing and a segment of the gaming sector illustrates how technology is increasingly blurring the boundary between formal and informal economic activity. Its work on nursing homes demonstrates how outdated regulatory frameworks can permit substantial informal participation and create competitive and consumer-protection concerns. Its credit-reporting work illustrates how weaknesses in formal institutions can themselves reinforce informality by restricting access to finance. Together, these experiences demonstrate that competition policy must engage with informality as an economic phenomenon rather than simply as a question of legal registration.

81. For Jamaica, effective competition policy in informal markets therefore requires three complementary approaches: sound economic analysis, proportionate enforcement, and sustained competition advocacy supported by effective inter-agency cooperation. Competition law should be used where anti-competitive conduct occurs, including where informal businesses participate in such conduct or are victims of exclusionary behaviour. At the same time, competition authorities should work with other government institutions to address the regulatory, tax, financial and institutional conditions that sustain informality.

82. The ultimate objective should not be to eliminate informal economic activity through competition enforcement. It should be the development of markets that are open,

contestable and competitive, in which businesses have meaningful opportunities to formalise and compete on their merits, consumers benefit from choice and competitive prices, and regulatory obligations do not distort the competitive process.

83. Jamaica's experience suggests that competition authorities in developing economies play an important role in achieving this balance. Effective enforcement must recognize the realities of informal markets while ensuring that informality does not become either a shield for anti-competitive conduct or a justification for suppressing legitimate sources of competition.

Annex of Case References

- Fair Trading Commission. (2017, October 9). *DSS Signal Theft In Jamaica*. Retrieved August 26, 2026, from JFTC.gov.jm: <https://JFTC.gov.jm/dss-signal-theft-in-jamaica/>
- Fair Trading Commission. (2020, November). *Assessment of Competition in the Mobile Telecommunications Market (November 2020)*. Retrieved August 27, 2026, from JFTC.gov.jm: https://JFTC.gov.jm/JFTC_faqs/assessment-of-competition-in-the-mobile-telecommunications-market/
- Fair Trading Commission. (2020, July 23). *Investigation into the Acquisition of Champion Gaming Limited (CGL) by Supreme Ventures Limited (SVL)*. Retrieved August 31, 2026, from <https://jftc.gov.jm/wp-content/uploads/2020/08/2020.07.23-FINAL-Staff-Report.-SVL-acquire-Champion-Gaming.pdf>
- Fair Trading Commission. (2022, January 19). *Study of Nursing Homes Sector in Jamaica*. Retrieved August 26, 2026, from JFTC.gov.jm: <https://JFTC.gov.jm/study-of-nursing-homes-sector-in-jamaica/>
- Fair Trading Commission. (2023, July 25). *The JFTC gives conditional approval of Massy's acquisition of IGL*. Retrieved August 24, 2026, from JFTC.gov.jm: <https://JFTC.gov.jm/the-JFTC-gives-conditional-approval-of-massys-acquisition-of-igl/>
- Fair Trading Commission. (2025, June 30). *The JFTC Completes its study into the Credit Reporting Industry*. Retrieved August 25, 2026, from JFTC.gov.jm: <https://JFTC.gov.jm/JFTC-study-into-the-credit-reporting-industry/>
- Fair Trading Commission. (2025, December 22). *The JFTC released its latest report: "Accommodating Ride-Hailing Platforms in Public Passenger Transport in Jamaica"*. Retrieved August 25, 2026, from JFTC.gov.jm: <https://JFTC.gov.jm/the-JFTC-released-its-latest-report-accommodating-ride-hailing-platforms-in-public-passenger-transport-in-jamaica/>
- Miller, D. (2015, December 3). *Impact of the Informal Sector on Trade & Competition*. Retrieved August 22, 2026, from JFTC.gov.jm: <https://JFTC.gov.jm/wp-content/uploads/2018/09/2015.12.03-DM-presentation-to-SELA-on-Jamaicas-Informal-Economy.pdf>
- Miller, D. (2018, September 12). *Informal Economy in Latin America & the Caribbean: Implications for Competition Policy*. Retrieved August 25, 2026, from JFTC.gov.jm: <https://JFTC.gov.jm/wp-content/uploads/2018/09/2018.09.12-JFTC-submission-to-LACCF-on-Jamaicas-Informal-Economy.pdf>
- Peters, A. (2017, August). *Estimating the Size of the Informal Economy in Caribbean States*. Retrieved August 24, 2026, from <https://publications.iadb.org/en/estimating-size-informal-economy-caribbean-states>
- Smith, S. (2024, August 27). *Competition Law Benefits Small Businesses*. Retrieved August 25, 2026, from JFTC.gov.jm: <https://JFTC.gov.jm/competition-law-benefits-small-businesses/>