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Commission Investigative Research

on

Fiji Rugby Union (FRU) Lottery Case

Press Statement

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To Promote Competition in the Fiji Markets

1. Introduction

- A. The initiation of this research was based on information followed by complaints received by the Commission from the members of the public in regards to Fiji Rugby Union (FRU) including in the lottery draw, tickets butts sold at different prices. This happened as a result of FRU decreasing the prices by fifty percent (50%) on the drawing date of the FRU Rugby Lottery Tickets (30 December, 2010).
- B. The Commission then commenced its investigation into the same as per the requirements of the Commerce Commission Decree 2010, which the Commission is a custodian of.
- C. The Commission followed the due process as stipulated in the Commerce Commission Decree 2010 in carrying out the investigation.
- D. The Commission wrote to the Fiji Rugby Union on 1 January 2011 outlining to them the Sections of the Commerce Commission Decree that they have breached and the way forward. In the letter, the Commission clearly outlined the processes the FRU needed to follow to rectify the anomaly that was evident from the initial examination of the case as reported by the complainant in relation to the reduction of ticket prices.

- E. The Commission in the letter stated that the alleged practice of selling the same lottery ticket at a lower price will place the persons, who bought the ticket for \$20, at a disadvantage, given their probability of winning has been reduced relative to those who bought the tickets for \$10.
- F. The Commission noted in the letter that such a practice would be seen to be in contravention of the following statutory provisions under the Commerce Commission Decree 2010:-
1. Section 75: For Deceptive or Misleading Conduct.
 2. Section 76: For Unconscionable Conduct.
 3. Section 77 (1) (e): For False or Misleading Representation.
 4. Section 83 (1): For Misleading Conduct In Relation To Goods.
 5. Section 85 (1): For failure to provide Gifts and Prizes as offered.
- G. The Commission requested FRU to show cause within 5 days from the date of issue of this letter, why they should not be penalized \$ 25,000 for each of the above mentioned breaches of the Commerce Commission Decree 2010.
- H. The Commission, in exercise of its powers under Section 15(4) read with Section 75 of the Commerce Commission Decree 2010, had directed Fiji Rugby Union to :-
1. Place an advertisement in the newspaper offering to reimburse \$10 to every person who would have bought the lottery ticket at \$20, **within 5 days** from the date of issue of this letter.
 2. Reimburse \$10 to every person who would have bought the lottery ticket at \$20, **within 10 days** from the date of issue of this letter.
 3. Submit to the Commission a list of all lottery tickets (with ticket numbers) sold at \$ 20 and \$10, **within 5 days** from the date of issue of this letter.
 4. Submit to the Commission a list of all reimbursements carried out along with details of persons whose reimbursements could not be carried out, **within 12 days** from the date of issue of this letter.
 5. Given that they had already declared the winner, the Commission then directed FRU to refrain from proceeding with the disbursal of prize money until further orders.
- I. The Commission made its position very clear in the letter that it expected an intention to comply letter from Fiji Rugby Union to the above latest by Close of Business, **Tuesday, 4 January 2011**.
- J. The FRU lawyers, Munro Leys responded to the Commission on 4 January, 2011 to the effect:
1. That FRU has done nothing wrong;
 2. That the Commission has abused its powers;
 3. That Fiji Commerce Commission Decree 2010 does not cover lottery sales and conduct;
 4. That selling lottery tickets at differential price is same as selling goods at a supermarket on discount.
- K. The Commission noted FRU could have discussed the matter with the Commission to rectify the problem given the matter needed urgent attention. Instead, they went ahead and hired a Law firm to defend their case.
- L. After analysing the response from FRU lawyers, the Commission had no other option but to obtain a search warrant and conduct a search and seizure at FRU office to collect all evidence pertaining to the Lottery project. The Order was obtained and executed on 5 January, 2011.
- M. Following search and seizure of lottery documents and information from FRU office, the Commission again, on the 5 January 2011 wrote to FRU asking for a meeting. FRU refused the meeting request.

2. Key Findings

The major findings after the analysis of documents and correspondences obtained during the search and seizure conducted at Fiji Rugby Union (FRU) Headquarters at 35 Gordon Street Suva on 5 January ,2011 in relation to the Rugby Lottery are :

A. Breach of the Conditions of the Permit Application and Permit

Information and data gathered and analysed shows and provides sufficient evidence that FRU breached the permit conditions in a number of ways. These includes:

1. **Selling of Tickets below Authorised Price on 30 December 2010.** Evidence gathered during the search and seizure conducted on 5 January, 2011 at FRU Head Office shows that 47 tickets were sold at FJD15 each and a total of 520 tickets were sold at FJD10 each. Documents and correspondences gathered during the search and seizure also proves that the sale of tickets at a discount had commenced from the early hours on 30th December 2010. This is contrary to FRU's claims that the ticket prices were reduced in the last few hours. FRU reportedly has also sold tickets at \$ 15 against the authorized price of \$ 20. In the Commission's letter to FRU, dated 1 January 2011, FRU was directed to refund \$10 to the persons who bought the tickets at \$ 20, however based on the investigative findings, it is now clear that merely this refund would not be enough to correct the anomaly.
2. **Using Funds Collected for Purposes other than that stated in the Permit.** Information and data collected and analysed reveal that significant amount of cash collected from the lottery ticket sales has been used for purposes other than that stated in the lottery permit. The most notable of these payments are:
 - 2.1 Airfare, Accomodation, Visa application and Game Tickets (for Hong Kong 7's 2010) for a senior FRU Lottery Director was paid from Lottery funds. This amounted to \$4500. Furthermore, he was also paid \$1106.25 (Accomodation and travels) to attend the Scotland 7's, and \$2884.53 (Accomodation, phone calls and meals) to attend London 7's in 2010. A separate Westpac account #: XXXXXXXX, called the Mr XXXX Hong Kong tour account was created and payments made on this account. Cheque number 1286 was written for \$8500.00 for this transaction. However, this cheque number is ficticious since the payment was made in cash.
 - 2.2 Full payment was made to Park Inn, Heathrow, London for metered phone calls, accommodation and meals for Mr XXXX, including 2 extra lunch and dinners from 18/05 – 21/05 during his visit for the London 7's. These cost the lottery fund GBP\$380 or at the payments rate, FJD\$1,155.37. "Attached documents in the appendix refer to a meeting to be held between Priya Cook, Louisa O' Connor, Keni Dakuidreketi, Kenneth Zinck, Jope Tuivanuavou and Umesh Prasad to discuss these additional unapproved charges. The Manager finance and Planning, Umesh Prasad, writes that necessary accounting adjustments will happen after the meeting. However, Priya Cook is to organize payments from the lottery account on the same day (19 July 2010)". The total expenses incurred for this was \$2884.53 and was paid using cheque number 67.
 - 2.3 Air Fare for Mr. YYY to travel to Auckland, and Wellington. Reason for the visit was not stated and the payment voucher was not authorized either. A total of \$1164.00 was paid using cheque number 1175.

2.4 Travelling : A total of \$3528.00 to Jad International Travels for Mr. XXX's internal flight movements from London to Edinburgh. Cheque number 1177 was written to effect this transactions.

3. **Not including some sold tickets in the Draw.** Documentary evidences gathered shows that a total of ten (10) sold tickets were not included in the draw on 30 December, 2010. The evidence of this not included in the draw is that these ticket butts are still in the ticket books. In many cases, one (1) ticket in the booklet containing five (5) tickets was sold. However, the lottery organisers of FRU treated the whole book as unsold , and as such sold tickets in these booklets were not included. As such these ticket holders were deprived of their legitimate right to be in the draw.

B. Breach of the Commerce Commission Decree 2010.

Evidence gathered demonstrates that FRU has breached the following Sections of the Commerce Commission Decree 2010

1. Section 75: For Deceptive or Misleading Conduct.
2. Section 76: For Unconscionable Conduct.
3. Section 77 (1) (e): For False or Misleading Representation.
4. Section 83 (1): For Misleading Conduct In Relation To Goods.
5. Section 85 (1): For failure to provide Gifts and Prizes as offered.

C. Lottery Tickets/Funds Accountability

1. **Tickets sales and unaccounted tickets-** an analysis of the sold, unsold and void tickets reveals that majority of the tickets (52.4%) are missing or unaccounted for. From a total of 100,000 tickets printed , only 47,591 tickets are accounted for leaving 52,409 unaccounted.
2. **Tickets sold at unauthorised price –** A total of 567 tickets were sold at a price lower than the authorised price on 30th Decemeber 2010. Of this 47 were sold at \$15.00, while 520 were sold at \$10.00. The discounted tickets sales had commenced before mid-day contrary to what FRU claims as being sold in the last two hours. Emial correspondence from FRU Chairman proves that it had commenced before mid-day.
3. **Commission paid for ticket sales-** From documents recovered from the Fiji Rugby Union Office (FRU) on 05/01/2011, there was insufficient evidence to establish the authorization process and documentation for payment of commission on lottery ticket sales. However, certain exceptions were noted on in the payment of these sales commission, it was noted that sales proceed was submitted to the FRU office the sales commission was deducted before receipting was done, a form was required to be filled and signed-off as evidence that sales proceeds were remitted (as in figure 10).
4. **Misuse of Lottery Funds-**During the Commissions independent analysis of the documents including the payment vouchers seized during the search it has been discovered that there are indications that funds collected has also been used extensively for other purposes. A number of transactions fail to clearly indicate the genuine need for incurring such expenditure to raise funds for the 15's rugby team for the Rugby World Cup, 2011.

The use of funds for such activities is contrary to the purpose stated in the permit which states "*Funds raised will be used to facilitate for the 15s Team's preparation for the 2011 Rugby World Cup*".

5. Missing Funds

The FRU has two lottery accounts :Fiji Rugby Union –Lottery Campaign Account (A/C No: XXXXXXXXXX) and Fiji Rugby Union –Lottery Online Account (A/C No: YYYYYYYY). As at 30th December, 2010 and 1st November, 2010 these accounts had a balance of \$103,903.29 and \$1081.97 respectively. However, based on the sold tickets butts obtained during the search and seizure, total amount collected from sales stands at \$350,005.

A summary to show the total funds collected , payments made and the balances as at 30th December, 2010 reveals the following.

Summary of FRU Lottery Accounts	
Total Receipts (based on tickets sold)	350,005.00
Total Payments (as per bank statement)	89,276.52
Balance (as calculated)	260,728.48
Balance Shown on the Bank Statements	104,985.26
Missing Amount/Unaccounted Amount	155,743.22

It should be noted that the amounts shown in the tables above are those that has been derived from documents seized on 5 January, 2010. The Commission, at this stage , could not take into account any funds that may still be with the agents for the sold tickets due to unavailability of information in this regard. For this an indepth audit needs to be carried out.

A question that needs to be answered is where this money is. These two accounts are the designated account where the funds should be kept. This was also confirmed by FRU's law firm, Munro Leys in an email to the Commission on Thursday 6th January, 2011. If the funds are not in this account, then serious questions arises as to in which account the funds are or who has taken the money. The only way answers to this could be obtained is to undertake a full audit of all FRU funds.

6. Lottery Money and Prize Payout

The prize money is \$300,000. However, based on the statements obtained during the search and seizure, FRU's lottery account has only \$104,985.26. The question that arises is how will FRU make the payment to prize winners? The Commission wrote to FRU on Thursday, 6th January 2011 to obtain a copy of the most recent bank statements for the two lottery accounts and any other account of FRU, but was advised that any request for information needs to be directed to their Lawyers, Munro Leys. The letters were then forwarded to FRU lawyers. FRU lawyers did not submit the same and requested us to approach FRU's Bank. The Commission then contacted the Bank and the Bank requested the Commission to get back to FRU(Full details of the correspondence between the Commission, FRU and their lawyers is attached in the appendix). The reluctance or inability of FRU or their lawyers or their Bank to furnish the details indicates towards a deceptive conduct and mismanagement of funds.

3. Commission's Position/Recommendation

- a) Sold tickets not in 30 December Draw: All sold tickets must be included in a re-draw.
- b) Disparity in ticket prices:
 - a. Exclude all tickets sold with unauthorised prices and redraw all \$20 tickets; or,
 - b. Provide opportunity for those with \$15 and \$10 tickets to pay the difference between their price and the unauthorised price and be included in the draw; or,
 - c. Change authorised price to \$10 and redraw all sold tickets as \$10 tickets (with \$20 tickets going in the draw as two tickets).
- c) Unauthorised Use of Lottery Money: Those involved must be criminally prosecuted.
- d) Missing Lottery Money: All FRU financial transactions must be subjected to a fully substantive audit test of details, to be conducted out by an independent auditor.
- d) Breach of Commerce Commission Decree 2010: Upon prosecution FRU is likely to face fine of \$ 25,000 for each of the breach. Given that FRU has refused to act as per the Commission directive and also not shown any interest for a meeting, Commission is left with no alternative but to prosecute.

Dr Mahendra Reddy,
Chair, Fiji Commerce Commission.
10 January, 2011.