



Basis of the Russian Antimonopoly Control in the Field of Industry

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Functions of the Antimonopoly Body

FAS Russia – authorized federal body of executive power exercising functions on control :

- over observance of antimonopoly legislation;
- over observance of legislation on natural monopolies;
- over observance of the legislation on advertising;
- over implementation of foreign investments;
- in the sphere of procurement of goods, works and services for state and municipal needs;
- over observance of the legislation in the sphere of the state defense order .

Purpose of Antimonopoly Control

Purpose of antimonopoly control in the sphere of industry

- favorable competitive environment;
- equal access to industrial goods, especially raw materials produced by dominant economic entities;
- cessation of anticompetitive intervention of public authorities in functioning of industrial markets;
- development of competition in potentially competitive types of activity.

Types of Antimonopoly Control in the Sphere of Industry

Antimonopoly control in the sphere of industry

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graph TD; A[Antimonopoly control in the sphere of industry] --> B[Preliminary:]; A --> C[Subsequent:];
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Preliminary:

- issuing of admonitions and warnings;
- control over economic concentration;
- control over compliance of agreements restricting competition with antimonopoly legislation, etc.

Subsequent:

- the initiation and consideration of cases on violation of antimonopoly legislation;
- conducting of inspections, etc.

Exercises control in the sphere of antimonopoly legislation in commodity markets:

- Mechanical engineering;
- Construction materials and light industry;
- Ore-extractive industry and precious metals;
- Products of ferrous and nonferrous metallurgy;
- Timber and woodworking industry;
- Pulp and paper industry and paper and paperboard goods.



Types of Violations of Antimonopoly Legislation in Industrial Sector

- Violations in the sphere of pricing;
- Conclusion of agreements restricting competition (cartel);
- Violations by public authorities;
- Violations during the procurement procedures.

Widespread Types of Violations of Pricing Procedure in Industrial Sector:

Actions (lack of action) of an **economic entity occupying a dominant position**, which result or can result in prevention, restriction or elimination of competition and (or) infringement of the interests of other persons (economic entities) are prohibited.

The most frequent types of abuse of dominant position in the industrial sector:

- Establishment and maintaining of monopolistically high price for a commodity (p.1 part 1 Art. 10 of the Federal Law “On Protection of Competition”):
 - CJSC “Alcoa Metallurg Rus” (for sheets of aluminum alloy AMr6M);
 - JSC “NTMK” (for z-type profiles of steel grades 09G2S and 12Г2ФД).
- Economically, technologically or otherwise unjustified establishment of different prices for the same goods (p.6 part 1 Art. 10 of the Federal Law “On Protection of Competition”):
 - JSC “NTMK” - unjustified establishment of different prices for z-type profiles of steel grades 09G2S and 12Г2ФД;
 - JSC “Kachkanar GOK “Vanadium” - unjustified establishment of different prices for vanadium-containing iron ore raw materials (agglomerate and pellets).

Anticompetitive Agreements

Cartel - agreement between competing economic entities or economic entities that purchasing goods on the same commodity market, if such agreements lead or can lead to (Art. 11 of the Federal Law “On Protection of Competition”):

- fixing or maintaining prices (tariffs), discounts, markups (surcharges) and (or) additions to prices;
- increasing, reducing or maintaining prices in course of competitive bidding;
- dividing the goods market according to a geographic principle, quantity of sales or purchases of the goods, the mix of goods or a composition of buyers or sellers (customers);
- reducing or terminating production of the goods;
- refusing to conclude contracts with particular sellers or buyers (customers).

Antimonopoly Prohibitions for Public Authorities

It is prohibited to public authorities and other bodies and organizations which carry out functions of the public authorities to adopt acts and (or) exercise actions (omissions) which result or can result in prevention, restriction or elimination of competition (art. 11 of the Federal Law “On Protection of Competition”).

FSUE “NIISU” (violation of part 1 article 15 of the law “On Protection of Competition”), consisting in inactivity, which can lead to restriction of competition in the market of titanium fasteners:

- FSUE “NIISU” defined order of extension of branch standards;
- functions of extension of branch standards of titanium fasteners was carried out by JSC “Normal”;
- JSC “Normal” did non provide branch standards for manufacturing of titanium fasteners for the request of the potential product producer.

Antimonopoly Requirements to Competition Procedures

The actions that lead can lead to prevention, restriction or elimination of competition in the course of tender, requests for price quotations for the goods are prohibited, (art. 17 of the Federal Law “On Protection of Competition”), including:

- Coordination of activity of the participants of the procedures by organizers or customers of this procedure, as well as conclusion of agreements with participants of these procedures;;
- creation of preferential conditions for participant of the procedure;
- violation of the order of procedure of estimation of a winner;
- participation of the organizers of procedure and (or) of members of staff of the organizers or customers.

Antimonopoly Risks:

- Antimonopoly investigation:
 - Inspections by antimonopoly body: field check scheduled and unscheduled, documentary inspections;
 - Obligation to submit to the antimonopoly body a lot of information and documents;
 - Participation in the meetings of the Commission of the FAS Russia on consideration of case on violation of the antimonopoly legislation.

- Recognition of actions as violation of the antimonopoly legislation:
 - Damage to business reputation;
 - Administrative liability and the imposition of significant sanctions;
 - Antimonopoly restrictions – determinations of the antimonopoly body on actions aimed at ensuring competition.

Thank you for attention!



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