



FEDERAL ANTIMONOPOLY SERVICE

Investigative Process in Competition Matters

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**Federal Law “On Protection of Competition”
Chapter 9 “Consideration of Cases on Violating the
Antimonopoly Legislation (№ 135-FZ of 26 July 2006)**

**Administrative Regulation on initiation and
consideration of cases of violations of Russian
Federation the Antimonopoly Legislation of (Order of
the FAS Russia №339 of 25 May 2012)**

Competition Agency Investigative Tools (1)

Tools for obtaining information for investigation:

- Application (requirements to application content specified in 135-FZ);
- Materials, indicating violation of antimonopoly legislation (including information received from the enforcement authority)***
- Information request;
- Scheduled and unscheduled inspections: interviews, search in the territories, premises, as well as studying documents and objects of the person under inspection.

Powers to obtain information from unwilling individuals or companies:

If the requested information is not submitted a case on administrative violation according to the procedure established by Code Of Administrative Offences of the Russian Federation №195-Fz of 30 December 2001 is initiated.

Sanctions for noncompliance and/or obstruction:

Code of Administrative Offences stipulates liability in the form of administrative fine.

***Signed agreements with Ministry of Internal Affairs, Investigation Committee and General Prosecutor Office

Investigation process

Procedure of consideration of petitions, materials and information indicating a violation of antimonopoly legislation

Application

Materials, indicating a violation of antimonopoly legislation

Information from mass media

Analysis and control of the information provided, information request, unscheduled inspections

A decision to refuse to initiate a case on violating antimonopoly law

A decision to initiate a case on violating antimonopoly law and to form a Commission

Investigation process

Creation of the Commission

Issuing an intermediary order on the case examination

Substantive consideration of the case, analyzing and control of provided information, information request, carrying out scheduled and unscheduled inspections

Findings on the circumstances of the case

Adoption of the decision on the case consideration by the Commission

Transparency During an Investigation

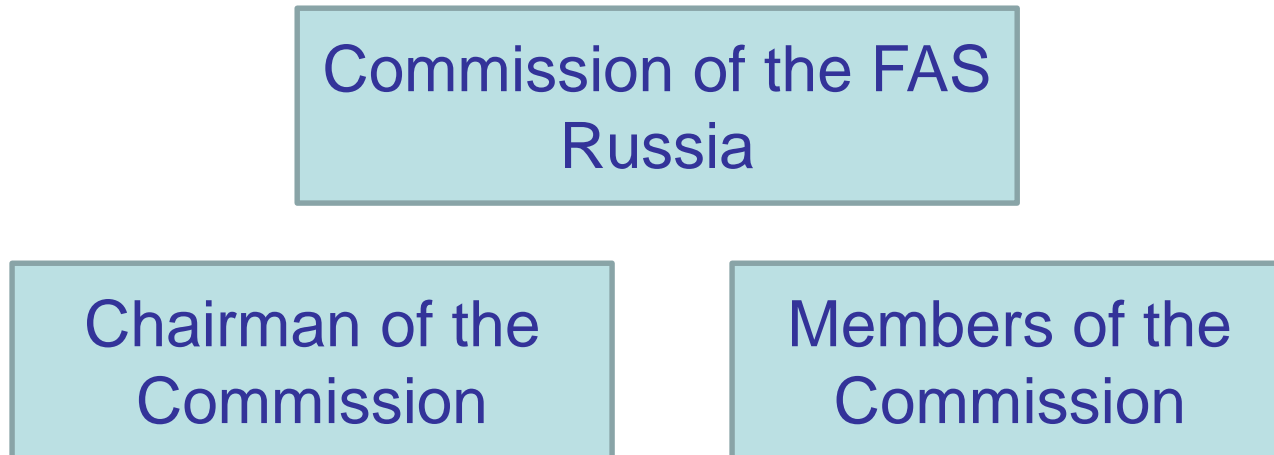
In accordance with Article 45 of Law “On Protection of Competition” «Considering of application, of materials and initiating cases of violation of the antimonopoly legislation» within 15 days from the date of making of the Decision to initiate antimonopoly case the Commission issues a determination on appointment of the case for consideration.

The determination contains:

- 1) Information about the parties which participate in the case;
- 2) Grounds of initiating the case;
- 3) Description of the identified signs of violation of the antimonopoly legislation, evidence, factual and other circumstances which prove its existence;
- 4) Information about the date, time and place of the meeting of the commission.

A copy of the determination is sent to all persons involved in the case, and is also published on the official website of the FAS Russia www.fas.gov.ru .

Engagement During an Investigation (1)



Chairman of the Commission – Head of the Antimonopoly Authority, his Deputy Head or Head of the Department (Regional Office of the FAS Russia)

Members of the Commission – officers of the FAS Russia

The number of members of the Commission is not less than three persons.

Engagement During an Investigation (2)

Meeting of the Commission on consideration of the case on the signs of violation of the AML

Applicant*

Defendant

Interested Persons

Commission meetings are open to the public and are held in a quasi-judicial order.

Parties involved in the antimonopoly case have equal rights. Parties are allowed to present their interests through representatives presenting due authorization certificate.

In the framework of the meeting of the Commission and during its breaks, parties have the opportunity to submit evidence and to respond to allegations of an applicant.

Basic principle - competitiveness of parties

* Upon the existence of application

Engagement During an Investigation (3)

At the meetings of the Commissions parties have the opportunity to submit evidence and to respond to the allegations of the applicant.

Before making a decision, the Commission adopts a conclusion on the circumstances of the case.

Defendant may present evidence on non-infringement.

The Commission considers and includes them in the case file.

In accordance with article 45.2 "Order of access of the persons participating in the case on violation of Antimonopoly legislation to the case that contains a trade secret" the persons participating in the case on violation of AML have the right at any stage to review materials and documents submitted by the other party, if they are not confidential.

Confidentiality Protection and Legal Privilege

- FZ -135 "On Protection of Competition" art. 26
"Responsibilities of the Antimonopoly Body on Observance of Commercial, Official other Secrets Protected by Law";
- Special Instructions of the FAS Russia on treatment of documents containing confidential information;
- FZ-98 "On Commercial Secret";
- FZ-148 "On Information, Informational Technologies and on Protection of Information";
- Treaty on the Eurasian Economic Union.

All documents are publicly available at information and legal portals and at the website of the FAS Russia.

Confidentiality Protection and Legal Privilege (2)

Parties determine themselves whether the information provided is confidential or not.

Federal Law “On Commercial Secrets“ defines the types of the information that cannot be classified as confidential:

- contained in the charter documents of the legal entity;
- securing the right to entrepreneurial activity;
- on property assets of state or municipal enterprises;
- on sizes and structure of income of nonprofit organizations, etc.

Federal Law “On Protection of Competition” provides for the order of the access of persons participating in the case to materials containing trade secrets.

Information may be disclosed only to the parties of the case with the consent of the party providing the information

Commission considers a case in the open form.

Involvement if necessary experts, interpreters and third parties.

The following information is published on the website of the FAS Russia www.fas.gov.ru:

- all information on cases of violation of the AML: order on initiation of the antimonopoly case, determination, notification, warning, admonition, decision;
- normative - legal acts;
- clarifications of the Antimonopoly legislation;
- analytical and other materials.

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