



25



TH ANNIVERSARY
OF THE RUSSIAN COMPETITION
REGULATION

The Federal Antimonopoly Service

Effective Implementation of Competition Policy and Law: Approaches to Tackle Anticompetitive Practices

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Kazan, Russian Federation

1990-1997 - State Committee of RSFSR for Antimonopoly Policy and Support of New Economic Structures

1997-1999 - State Antimonopoly Committee

1999 – 2004 - Ministry for Antimonopoly Policy and Support of Entrepreneurship

2004 – present - Federal Antimonopoly Service

(the FAS Russia) was established in accordance with the Decree of the President of the Russian Federation № 314 of March 09, 2004.

FAS Russia – independent government body directly under the Government of the Russian Federation.

Regional Offices of FAS Russia function in each of the 85 constituent territories of the Russian Federation.



FAS Russia powers:

- Competition protection and antimonopoly regulation;
- Supervision over public procurement;
- Control over natural monopolies;
- Control over distribution of property, resources and rights on a competitive basis;
- Control over anti-competitive actions of the Public Authorities.

The FAS Russia is «full-cycle» body of antimonopoly control

- consider applications;
- initiate and consider cases;
- take decisions;
- take decisions on imposing fines;
- control over judgment execution;
- maintain decisions in courts.

Deficiency exemption and sectoral exception

Support of the FAS Russia activity

- competition protection, freedom of economic activity, unity economic space are guaranteed by the Constitution of the Russian Federation (Articles 8 and 34);
- the Civil Code of the Russian Federation excludes using civil rights for restriction of competition, as well as abuse of dominant position in the markets (Article 10);
- participation of the President of the Russian Federation Vladimir Putin in the events devoted to the 25th Anniversary of Russian Antimonopoly Regulation (September 23, 2015, Moscow).

2015 – broadening of powers

- Delegation of new functions to FAS Russia for control over state defense procurement (A new law «On State Defense Procurement» (275-FZ) of July 1, 2015);
- FAS Russia received powers in the sphere of tariff regulation. Federal Tariff Service (FTS Russia) was abolished by the Decree of the Russian Federation President N 373 of July 21, 2015.

Road Map on “Developing Competition and Improving of Antimonopoly Policy”

- Specifies system-wide measures on developing competition;
- Includes a list of measures for competition development in certain industries:

medicines, medical services, air transportation, communications services, pre-school education, and oil products.

Method of monitoring and supervision over Road Map implementation is developed.



Government Commission on Competition and Development of Small and Medium Enterprises

Igor Shuvalov – Chairman of the Commission ,
Vice Chairman of the Government of the Russian Federation;
Igor Artemyev – Deputy Chairman of the Commission, the
Head of the FAS Russia.

Decisions are obligatory for all governmental authorities

Commission powers:

- Elaboration of draft proposals for implementation of national competition policy, including economic sectors;
- Coordination of activities of the authorities;
- Cooperation with members of the business community.

A new format of cooperation between the State and the business community

Priority – Socially Significant Markets

Pharmacy

Food products

Oil production

Electricity market

Telecom

**Competition
development**



**Eviction of
infringements**



**Rise of
welfare and life
standards**

Radical modernization of the antimonopoly legislation has been done by amending more than **twenty** federal laws:

- ✓ “The First Antimonopoly Package” (2006);
- ✓ “The Second Antimonopoly Package”(2009);
- ✓ “The Third Antimonopoly Package” (2012).





Pursuant to the Roadmap "**Developing Competition and Improving Antimonopoly Policy**" and the recommendations of the OECD the FAS Russia elaborated "the 4-th Antimonopoly Package".

On October 5, 2015 President of the Russian Federation, Vladimir Putin signed Federal Law «On Amendments to the Federal Law On Protection of Competition » («the 4-th Antimonopoly Package»).

Targeted changes intended to:

- ✓ reduce of administrative burden on the subjects of entrepreneur activity;
- ✓ ensure procedural guarantees when considering antimonopoly cases;
- ✓ reduce of government involvement into the economy;
- ✓ increase of liability for anti-competitive actions of the Public Authorities.

Significantly expanding institutions of warnings and admonitions

Sphere of their distribution:

- ✓ actions of the public authorities;
- ✓ unfair competition;
- ✓ other types of abuse of dominant position.



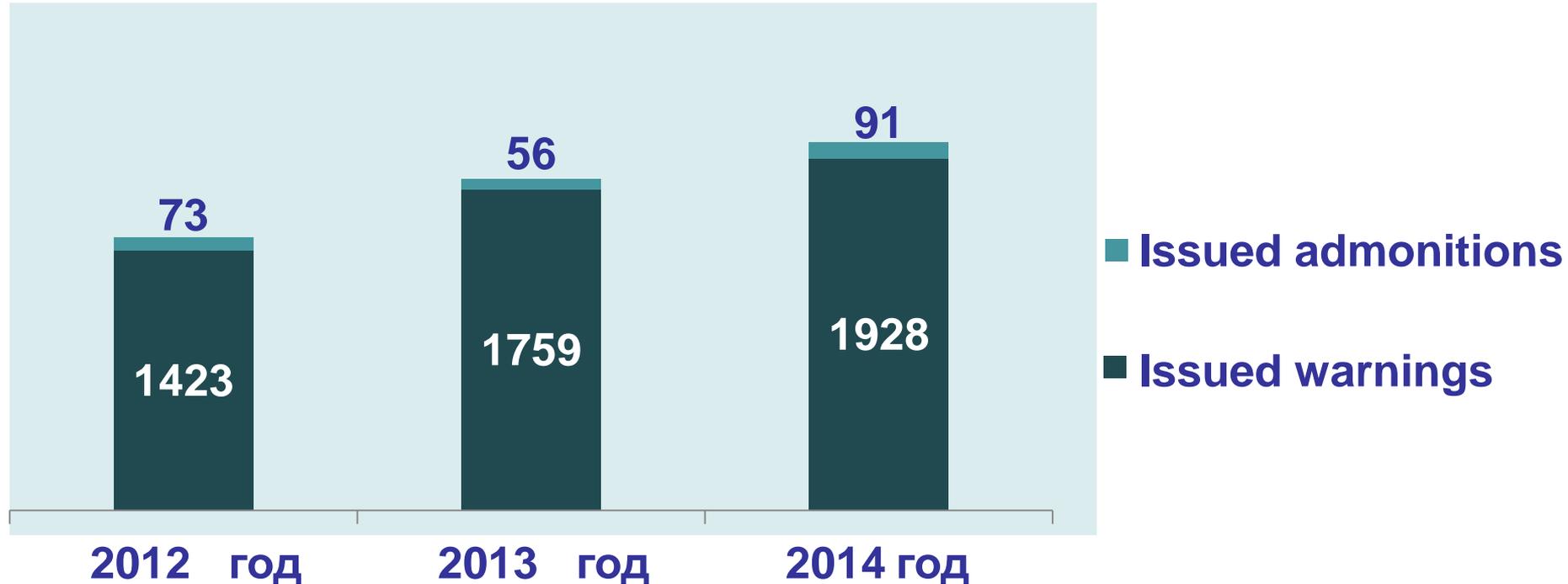
Prior to initiation of proceedings on the signs of violation of the Antimonopoly legislation FAS Russia issue warnings to businesses and public authorities on termination of prohibited activities

Implementation of the warnings Institute:

- ✓ **Business** has got an opportunity to eliminate law infringements without imposing penalties;
- ✓ **The FAS Russia** – has got a right to initiate proceedings only after refusal of economic entities to execute preventions;
- ✓ **Consumers** – have got an opportunity to protect their rights more effectively;
- ✓ It means sharp reduction of number of the considered cases for **courts**.



The FAS – is the Authority of preventive Control

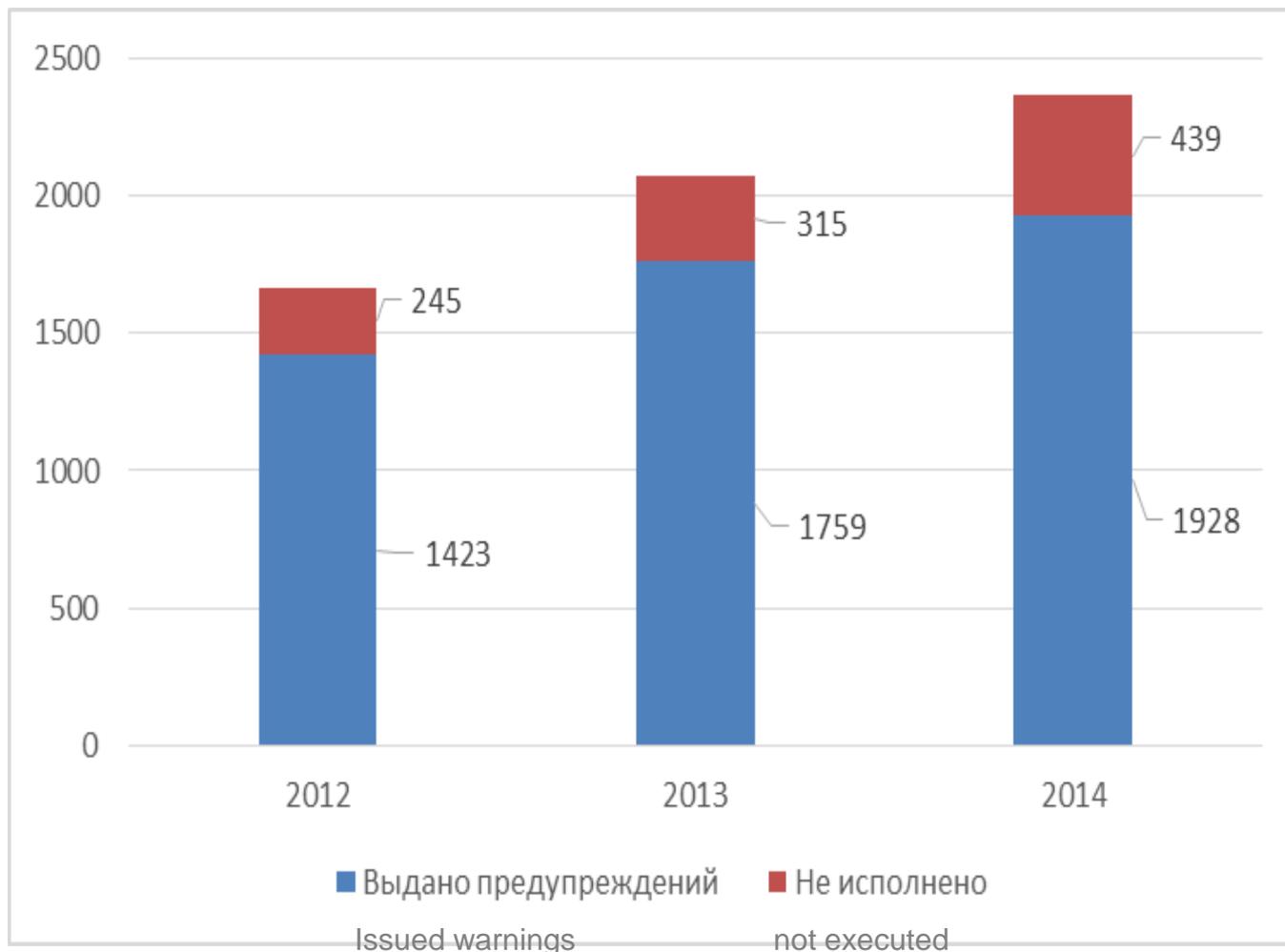


FORECAST:

Due to widening of warnings and admonitions institutions the number of cases will be **reduced on 200-300%**

The FAS Russia – is the Authority of Preventive Control

About 80% of issued warnings are executed



The Fourth Antimonopoly Package

The FAS Russia focused on major matters which have significant impact on the competition:

✓ **Ban to abuse of a dominant position**

is an exclusion if such actions lead to infringement of interests of the persons who aren't connected with implementation of business activity and don't lead to restriction of the competition in the market in general ("A problem of summer residents").



Today it is **more than 1200** cases per year.

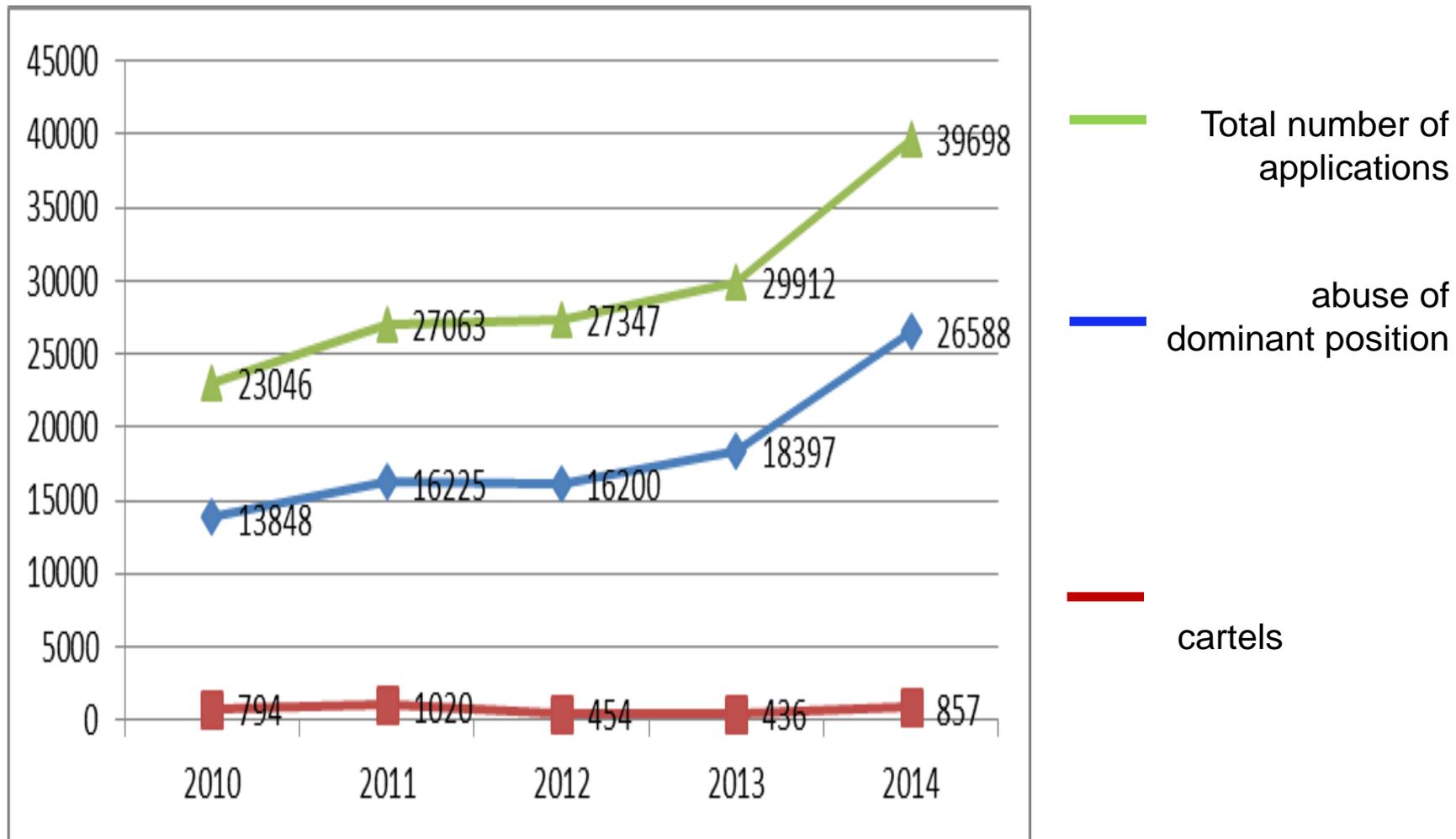
Government of the Russian Federation is empowered to approve non-discrimination rules for goods on the monopoly markets :

- ✓ under the results of the analysis on competition situation conducted by antimonopoly body;
- ✓ only in respect to economic entities which share in commodity market more than 70% and which abuse their dominant position in commodity market.

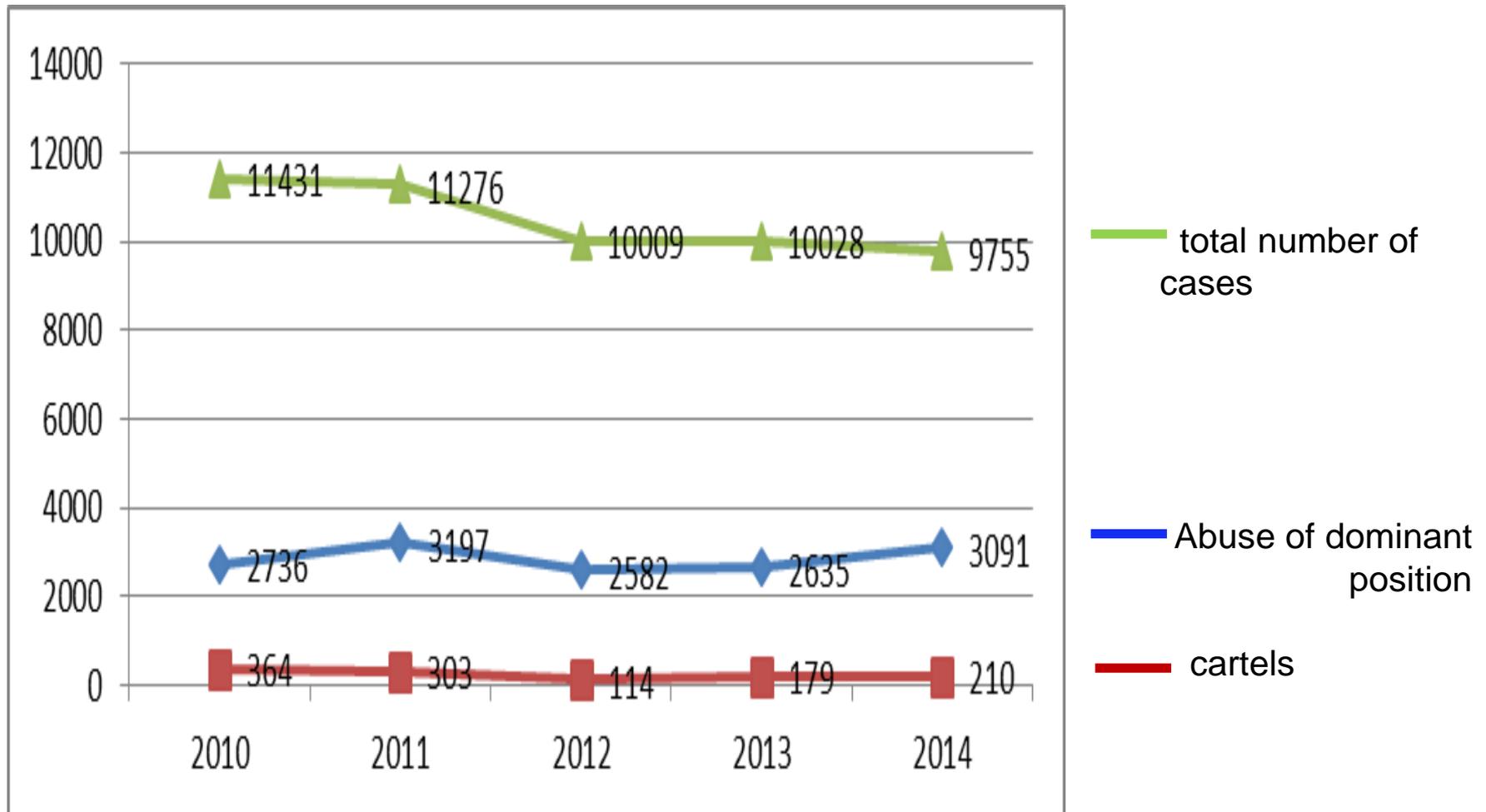
The 4-th Antimonopoly package

- ✓ Introduces the Institution of preliminary conclusion of the Commission about the revealed violation;
- ✓ Introduces the new chapter providing the detailed description of prohibited practices of unfair competition;
- ✓ Specifies the procedure for review of decisions of regional offices of the FAS Russia by the Board of the FAS Russia;
- ✓ Restrict the area of implementation of the Law on Protection of Competition for bids of private companies.
- ✓ Introduces uncontested disqualification for government officials

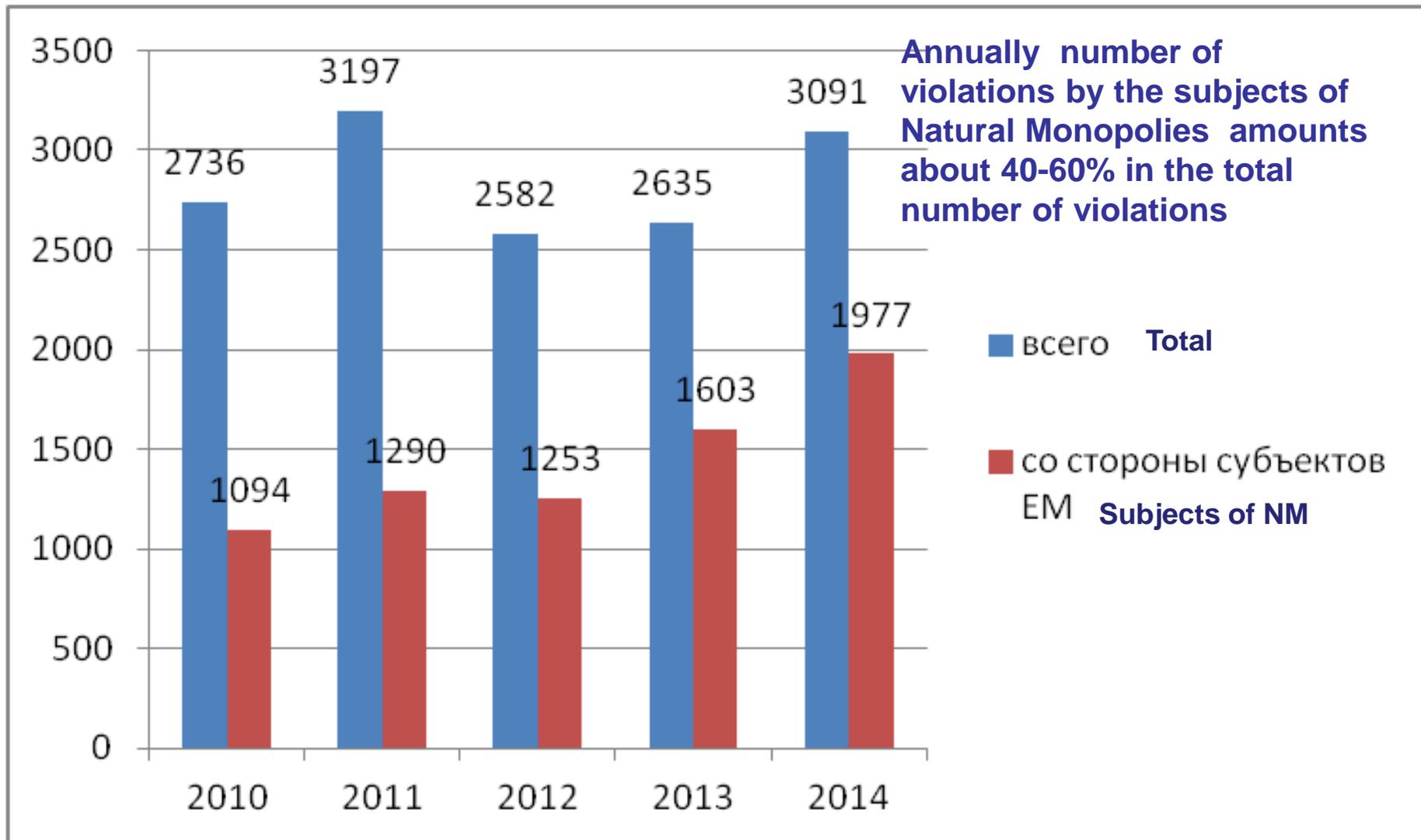
Number of applications reviewed



Number of considered cases



Abuse of dominant position – violators





FAS Russia has fined OJSC "LUKOIL", OJSC "Gazprom Neft", OJSC "TNK-BP holding" and OJSC "NK "Rosneft" for violation of the Antimonopoly legislation

These companies in the 3rd and 4th quarters of 2008 abused a dominant market position by setting monopolistically high prices on oil products. The FAS Russia has initiated and investigated "three waves of cases". On May 25, 2010 and on February 15, 2011 the Supreme Arbitration Court ruled in favor of the FAS Russia against the oil companies, which in total paid 470 million US dollars of fines .

FAS Russia criminales abuse of dominance position to OJSC "Russian Railways" – monopolist refused to provide comprehensive carriage service at regulated tariff.

Consequences of the violation:

- ✓ lack of coaches in case of its excess;
- ✓ Increasing of coach components up to 2 times, which led to growth of transportation cost up to 30 %
- ✓ Reducing of services availability: before 90% of requests of large shippers were satisfied and now -60%, rate of applications from small and medium businesses was dramatically reduced from 75% to 30%;
- ✓ Mass complaints to FAS Russia
- ✓ Growth of inflation in Russia.



In 2013-2014 FAS Russia considered 3 cases on abuse of dominant position expressed in economically and technologically non reasonable refusal to conclude a treaty with an economic entity for supply of medicines in respect of:

- ✓ JSC Company "Baxter";
- ✓ Company TEVA PHARMACEUTICAL INDUSTRIES LIMITED;
- ✓ LLC "Novo Nordisk" (decision of the FAS Russia are challenged in court).
- **Sustainable evidence practice was formed for economically and technologically non reasonable refusals to conclude treaties for supplying of medicines by economic entities occupying dominant position.**
- **Courts took fundamental decisions that exemptions stipulated by Antimonopoly Law for actions of execution of exclusive rights for results of intellectual activity do not apply to the actions of economic entities expressed in economically and technologically non reasonable refusal to supply monopoly goods.**





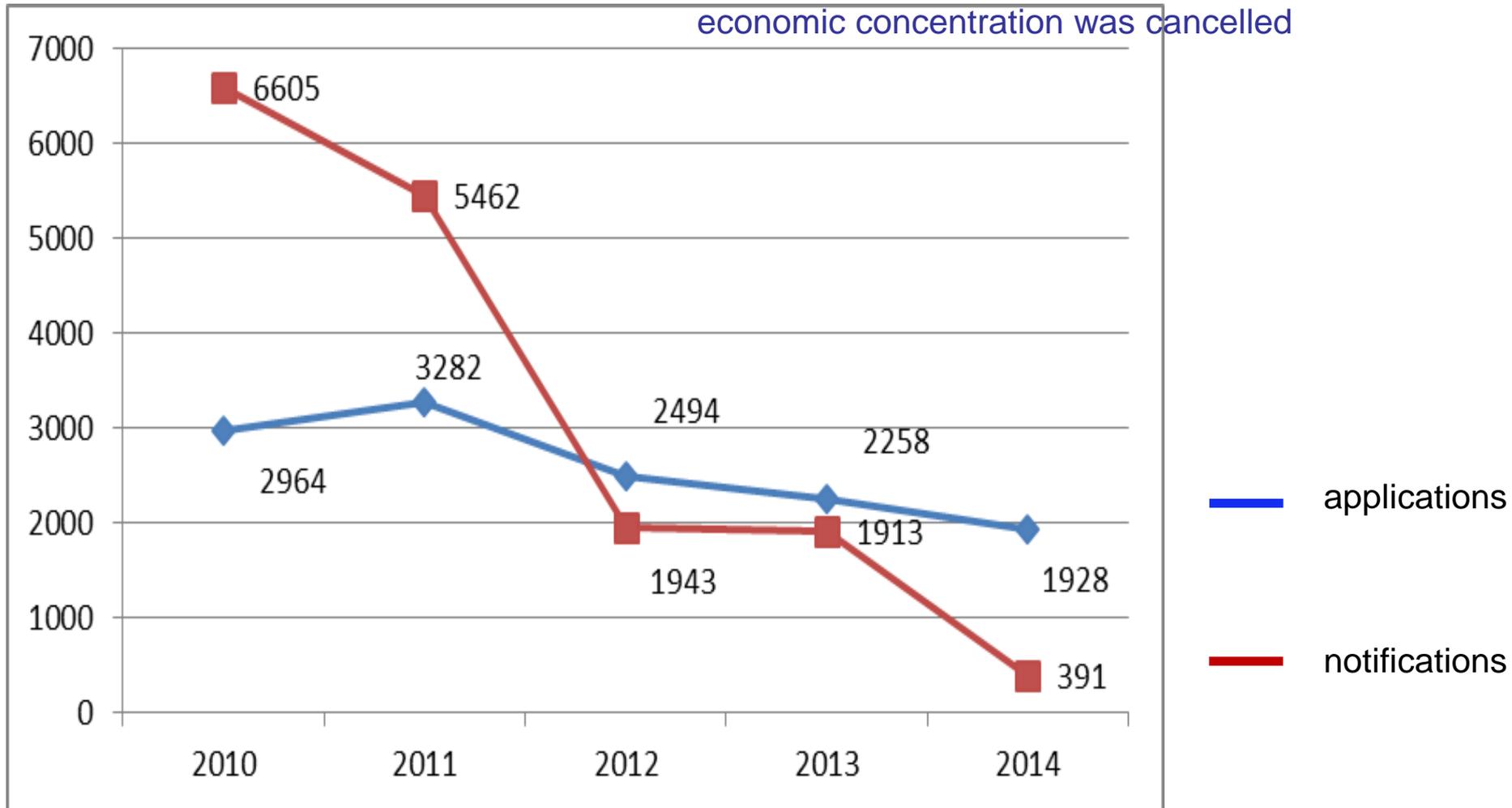
Anticartel activity is one of the priorities of the Federal Antimonopoly Service



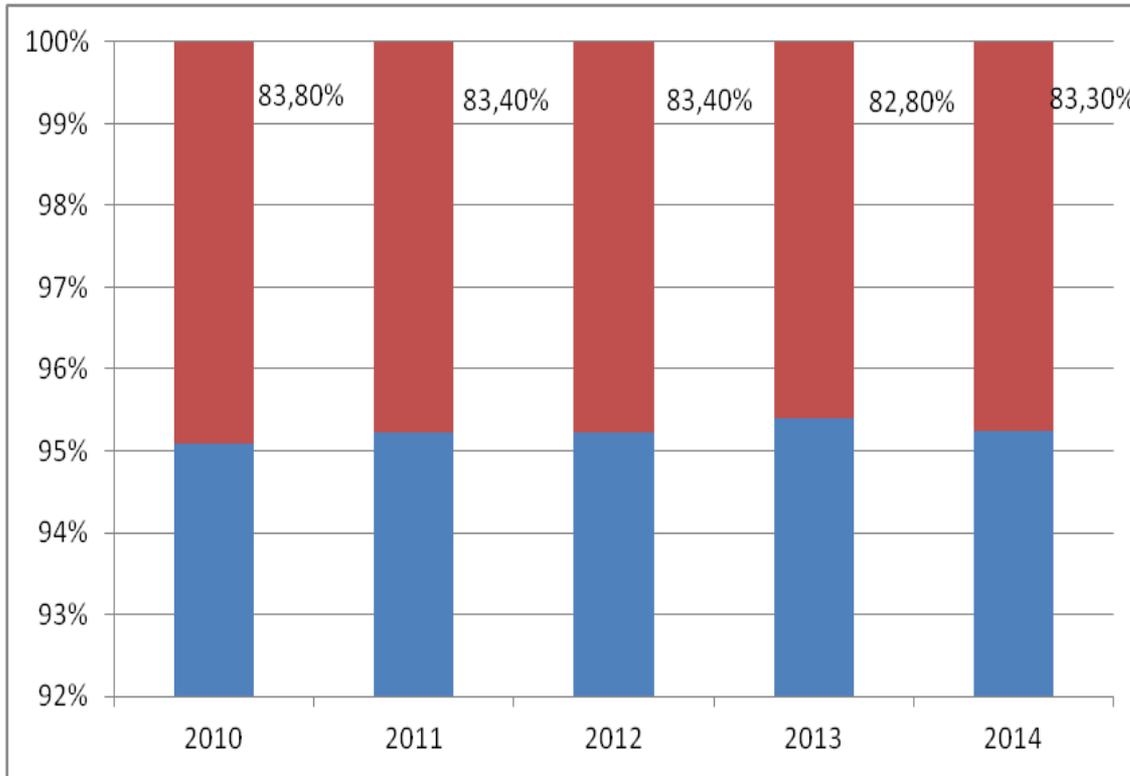
FAS Russia managed to form a **system of combating cartels** - to create legislation, implement special tools, develop enforcement practice.

Control over economic concentration

In accordance with the Federal Law of 28.12.2013 № 423-FZ notification control over transactions on economic concentration was cancelled



Share of eliminated violations of the Antimonopoly legislation among revealed violations



Eliminated violations:

- Prior to initiating of proceedings;
- In the course of consideration a case;
- Instructions fulfilled;
- Complaints of the Antimonopoly body satisfied by the court

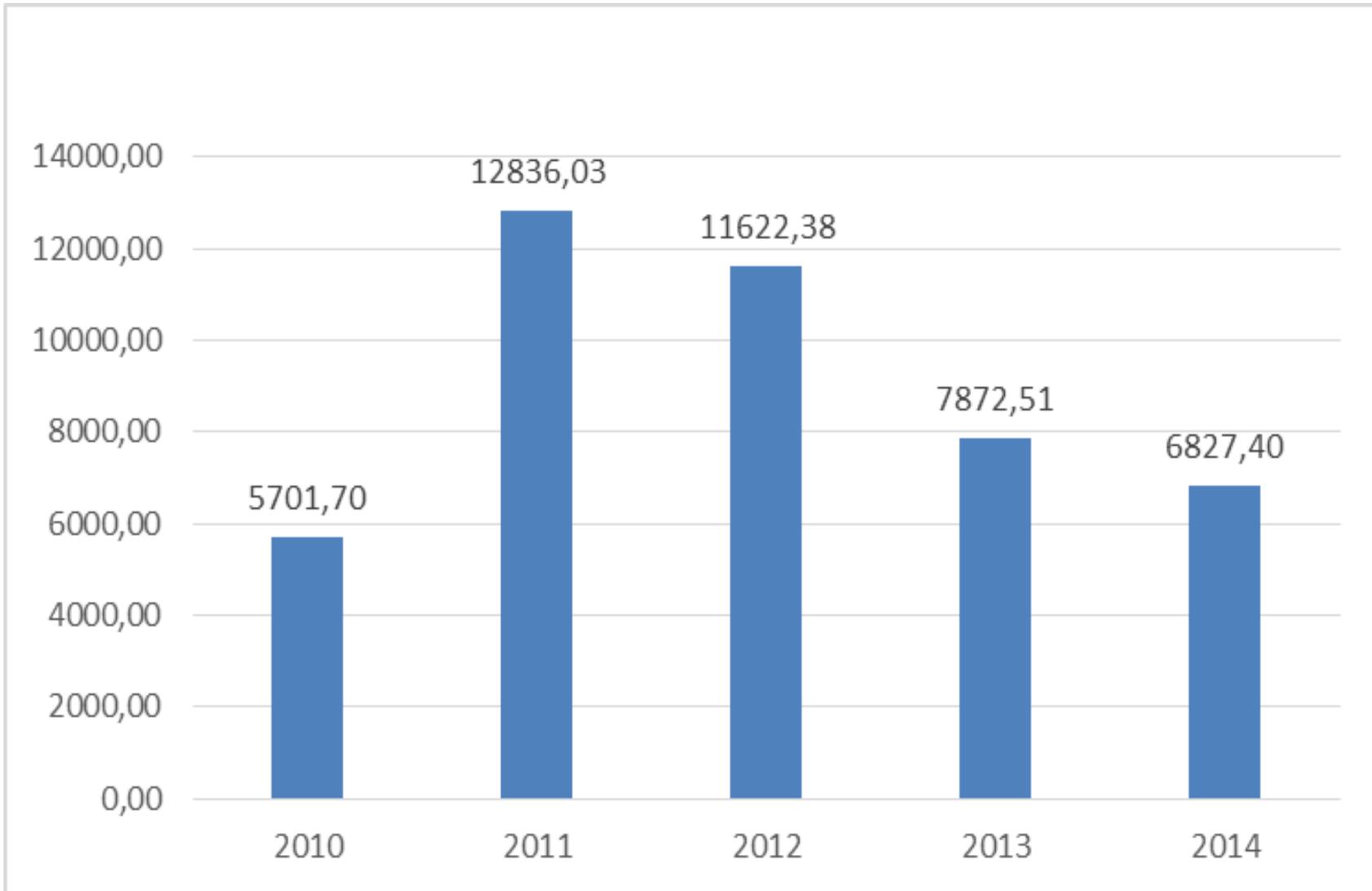
	2010	2011	2012	2013	2014
Violations revealed	10 249	9 560	9 839	9 597	9 721
Violations eliminated	8 590	7 969	8 204	7 950	8 096

Results of passing decisions (instructions) on violation of Antimonopoly legislation through the courts

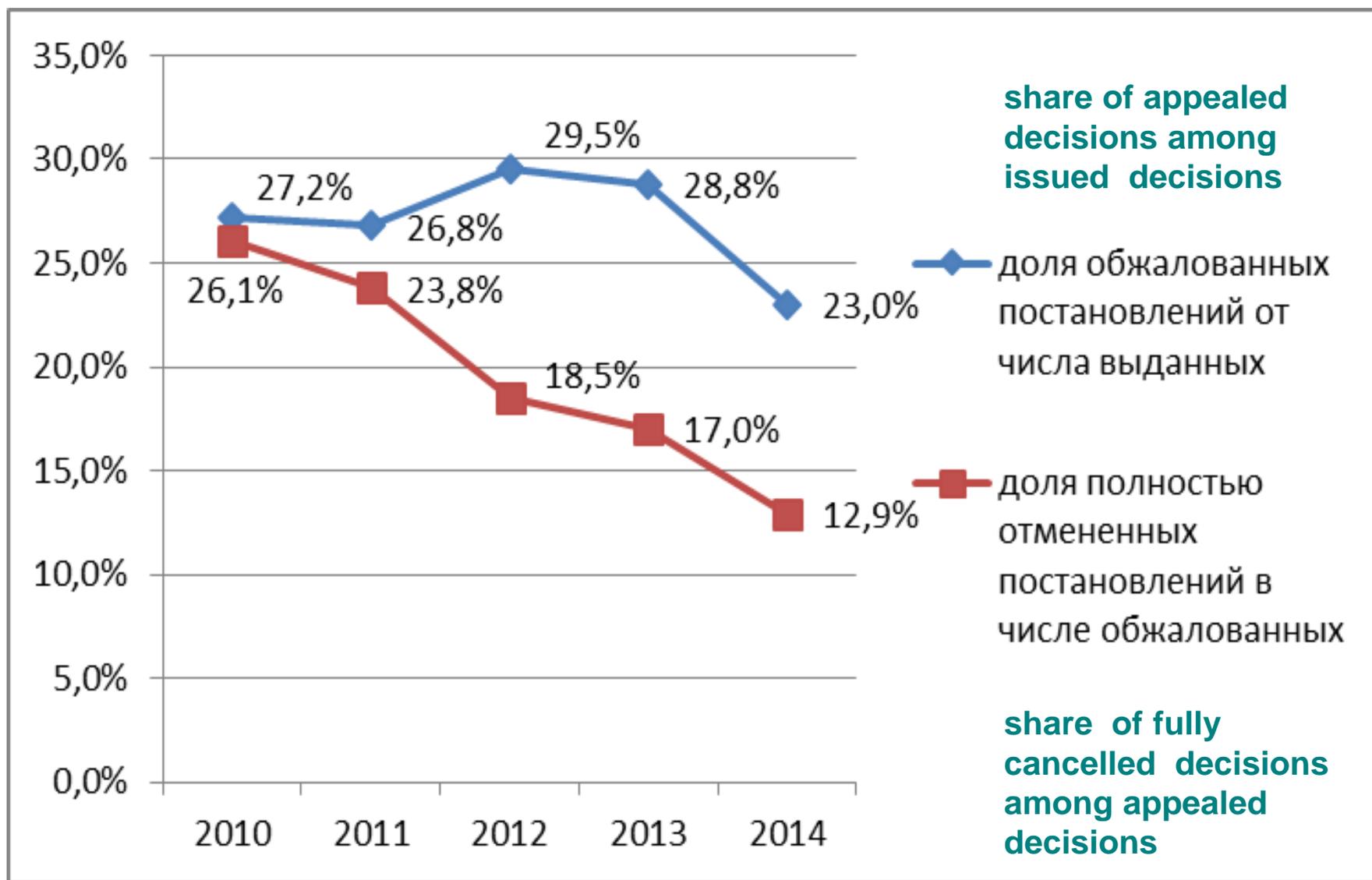
	2010	2011	2012	2013	2014
Appealed among approved	25,9%	34,9%	38,0%	36,9%	33,4%
Cancelled among appealed	15,5%	15,1%	16,3%	19,1%	16,1%
Cancelled among approved	4,9%	5,2%	6,2%	7,1%	5,4%

Dynamics of the total amount of fines imposed for violation of the Antimonopoly legislation

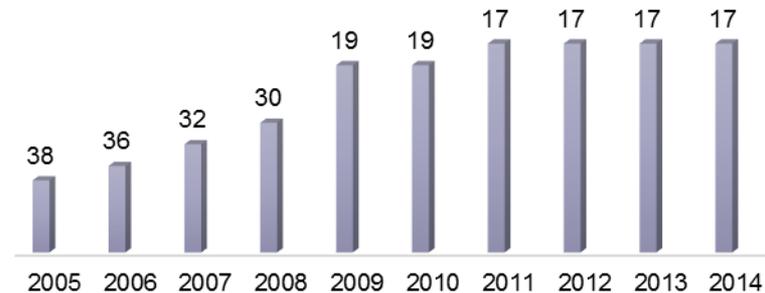
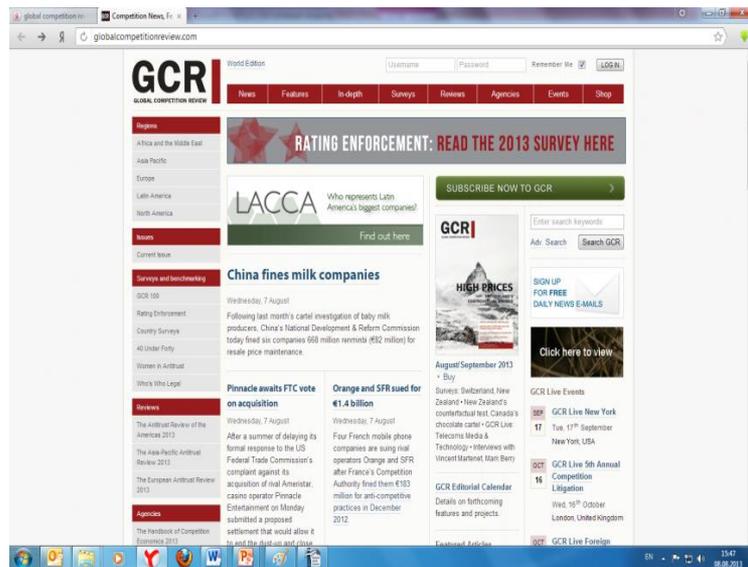
Mln rubles



Results of passing of decisions on imposition of fines through the courts



Since 2005 the FAS Russia strengthens its position in the **Rating of the effectiveness of Competition Authorities**, published by Global Competition Review (GCR)



According to the GCR Rating in 2014 Russia was in the group of countries that start with the 17th position and are assigned three scores and the “Good” grade.

FAS Russia is in the same group with competition authorities of such countries as Austria, Hungary, Poland, Portugal, Turkey, Finland, Czech Republic, Sweden, South Africa, etc.

International cooperation of the FAS Russia

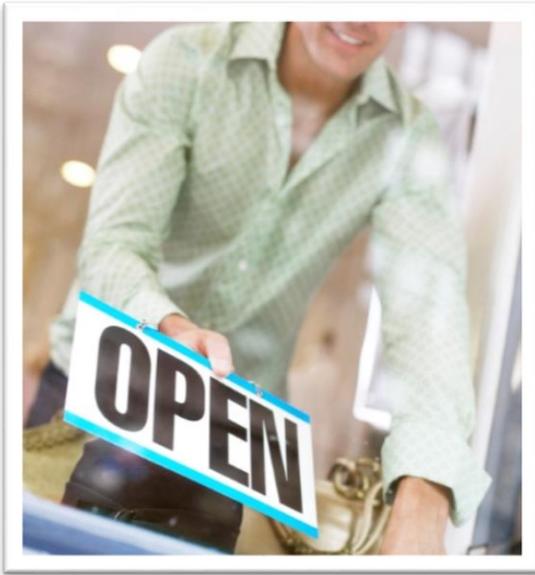
- ✓ OECD (In July 2013 OECD Competition Committee has acknowledged compliance of competition policy and legislation of Russia to the OECD standards);
- ✓ UNCTAD;
- ✓ ICN (FAS Russia is a member of ICN Steering Group since 2007, FAS Russia is co-Chairman of the ICN Anticartel Working Group since 2014);
- ✓ APEC;
- ✓ EEC;
- ✓ CIS;
- ✓ BRICS.



International cooperation of the FAS Russia



Increase of the Agency's Transparency



- Public Reception Office of the FAS Russia
- Administrative Regulation on Information Policy;
- Official web-site www.fas.gov.ru in Russian and English;
- Representation in blogs and social networks (Facebook, Twitter, Livejournal, Vkontakte) – over 40,000 users;
- Annual reports presented by the FAS Russia;

28 Advisory and Expert Councils;

Non-Commercial Partnership “Promotion of Competition”;

E-journal “Russian Competition Law and Economics”;

Annual Russian Competition Day;

The Centre for Education and Methodics of the FAS Russia;

Social advertisement.

Our Mission

Free competition and efficient protection of entrepreneurship for the future of Russia

Our Motto

Legality, equality, justice

Our Values

Openness, cooperation, efficiency



Thank you for your attention!



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