

The Russian Federation
The role of competition law and policy in supporting microenterprises and small and medium-sized enterprises during economic recovery in post-pandemic period
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Supporting micro, small and medium-sized enterprises is essential for the functioning of markets, ensuring consumer welfare, promoting innovation, increasing employment and economic growth.

Today through the process of developing antimonopoly legislation, the state can respond in a timely manner to the current economic reality in the face of new challenges and stimulate economic recovery in post-pandemic period.

In order to support small and medium-sized businesses following the pandemic the Government of the Russian Federation provided financial aid packages depending on whether the activity of the SME entity belongs to one of the affected industries defined by the Decree of the Government of the Russian Federation of April 3, 2020 No. 434:

- transport (air transportation, airport activity, road transportation, passenger transportation by rail, sea and inland waterways);
- culture, organization of leisure and entertainment;
- health, fitness and sport;
- arts and crafts;
- travel agents and other tourism service providers;
- hotel industry;
- food service industry;
- additional education establishments and non-state educational establishments;
- convening of conferences and exhibitions;
- provision of domestic services to citizens (repair, laundry, dry cleaning, hairdressing and beauty services);
- health care (dental practice);
- non-food retail market (retail trade of cars, light motor and other vehicles, automotive parts, assemblies and accessories; retail trade of motorcycles, their parts, components and accessories; retail trade of information and communication equipment in specialized stores; retail trade of other household goods in specialized stores; retail trade of

- textiles, clothing, footwear and other goods in non-stationary retail facilities and markets; vending);
- mass media and manufacture of printed output (television, radiobroadcasting and media outlets; newspaper printing; publication of books, newspapers, magazines and periodicals).

There are general support measures for all entities (deferral of tax and fees reporting period deadlines, savings on advance income tax payment, reduced inspections, penalty relief or deferment, increased government contract advances, extension of tenancy for state or municipal property, certificate of force majeure circumstances free of charge), support measures granted for all small and medium-sized businesses (lowering insurance premium from 30% to 15%, extension of time for payment of some administrative fines from 60 to 180 days, deferral of payments for buying out state or municipal property for a period of 6 to 12 months) and additional support measures granted for the affected small and medium-sized businesses and self-employed.

Undoubtedly, the pandemic has affected the number of SMEs, according to the Unified Register of Small and Medium-Sized Enterprises, at the beginning of 2020 there were 5 916 906 micro, small and medium-sized enterprises, and at the beginning of 2021 – 5 684 561. However, timely measures aimed at supporting SMEs and economic recovery have not only terminated the negative dynamics, but also increased the number of registered SMEs today to 6 034 031.

When it comes to FAS Russia, most of the recent legislative changes were also primarily aimed at supporting small and medium-sized business and economic recovery.

One of the most important results of our activity was the development and adoption of the National Competition Development Plan for 2021-2025, approved by the Order of the Government of the Russian Federation of September 2, 2021 No. 2424-p. The measures laid down in this document address main systemic and sectoral issues, contribute to the creation of favorable conditions for doing business, eliminate administrative barriers and distortions of competitive environment, as well as factors hindering the development of competition, including in the context of pandemic.

Other changes in our legislative framework in connection to the pandemic include temporary restrictions imposed at the federal level in relation to all types of control and supervisory activities, deferrals and installments for the payment of imposed

finer to temporarily ease the financial burden, providing remote consideration of cases on violation of antimonopoly legislation and administrative violations.

In the Federal Law of March 1, 2020 No. 33-FZ "On Amendments to the Federal Law "On Protection of Competition" we introduced legal definition of antimonopoly compliance as "system of internal compliance with requirements of antimonopoly law". This mechanism allows economic entities to reduce risk of violations and negative consequences: fines, losses and damage to their goodwill.

At the same time, we developed Guidelines "On Specifics of State Antimonopoly Control over Economic Concentration" important for business affected by pandemic. Based on enforcement practice, we explain and give recommendations on the procedure for conducting an economic analysis of a transaction, analyzing the anticompetitive consequences, describe in detail the procedural issues of filing an application and approving transactions, as well as define the criteria for issuing behavioral and structural remedies.

Moreover, we have issued Guidelines "On procurement unions" describing the possibilities for concluding joint procurement agreements within the framework of the current antimonopoly legislation. Such unions allow small retailers to carry out joint purchases to expand the assortment, reduce purchase prices, and consequently retail prices. It is important that economic entities have the right to apply to the antimonopoly authority on the admissibility of concluding such agreements, which will reduce the risks of violating the antimonopoly legislation.

FAS Russia strictly executes antimonopoly legislation in relation to market participants violating it, while striving to comply with a soft regulatory regime to prevent violations, including through the institution of warning.

In 2022, the President of the Russian Federation signed the Federal Law of February 16, 2022 No. 11-FZ "On Amendments to the Federal Law "On Protection of Competition" and Article 1 of the Federal Law "On the Basic Principles of State Regulation of Trading Activities in the Russian Federation" that exempts small and medium-sized business from excessive antimonopoly control.

In particular, according to this law if the revenue of the acquired company under the transaction of economic concentration does not exceed 800 million rubles, approval of FAS Russia is not required (previously the threshold value was 400 million rubles).

Similarly, increase in threshold values to 800 million rubles is provided for the eligible "vertical" agreements, as well as in part of a number of antimonopoly requirements provided for by the trading legislation (in relation to retail chains and suppliers of food products)

Thus, a company cannot be recognized as a dominant economic entity if its annual revenue does not exceed 800 million rubles.

FAS Russia believes that such changes in threshold values for economic entities will help to reduce bureaucratic costs for micro, small and medium-sized enterprises, while keeping in place all the mechanisms that increase the effectiveness of the existing tools for combating cartels.

Another law adopted this year is the Federal Law of March 6, 2022 No. 41-FZ "On Amendments to the Code of Administrative Offences of the Russian Federation", which allows micro, small and medium-sized enterprises to pay half of the amount of the imposed administrative fine when subjected to administrative liability.

In this case, the amount of the fine should be paid not later than 20 days from the date of the decision on the imposition of the fine. It is assumed that a liable person will have the right to restore the missed deadline for paying the fine with a 50% discount if he receives such a resolution after 20 days from the date of its issuance.

The adoption of the law allows micro, small and medium-sized enterprises to avoid possible financial difficulties and eliminate negative consequences for further business activities, as well as reduces the administrative burden on officials of antimonopoly authorities and judges that conduct proceedings on cases of administrative offences.

It is expected that two more vital laws will be adopted in next to no time. Firstly, we are releasing state bodies from the obligation to submit to FAS Russia applications on approval of the provision of state preferences by the end of 2022 if preferences are provided for support for small and medium-sized businesses. Secondly, we are excluding the requirements for obtaining our prior consent for acquisition of stocks, shares, property and rights in respect of commercial organizations, the total value of assets of which ranges from 800 million rubles to 2 billion rubles (at the moment, this procedure is established for transactions up to 800 million rubles). In this case, FAS Russia should be notified not later than 30 days after the date of such transaction and we will still be entitled to issue remedies aimed at ensuring competition. Such changes in threshold values are aimed at supporting business and reducing the administrative burden on SMEs in the field of antimonopoly regulation.

In the current economic conditions, FAS Russia actively interacts with the business community, including the framework of the work of the Public Council under FAS Russia and the industry expert councils, while constantly proving that protection of the interests of micro, small and medium-sized businesses is one of the priorities in the work of authority.