

The Russian Federation
Roundtable on “The Role of Competition Policy
in Promoting Economic Recovery”
OECD Competition Committee
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Summary

In 2020, the global economy was in a state of recession due to a shocking threat.

The reason for this was that many countries around the world, against the backdrop of the pandemic of the new coronavirus infection COVID-19, took preventive measures, which significantly affected the economy.

In order to build the economy of the future, it is necessary to create an institutional economic basis for change at the first stage of 2021 – 2022.

It must be emphasized that maintaining competition over the long term is essential for the functioning of markets, consumer welfare, innovation, employment and economic growth.

In turn, the implementation of the state policy for the development of competition is not a one-time event, but one of the key directions and factors of economic growth. At the same time, competition and measures for its development are precisely the resource that can make the country's economy more developed.

The FAS Russia, as a guarantor of compliance with antimonopoly legislation, protects not only the economic structure of markets that find themselves in a difficult situation during a pandemic, but also stimulates measures that allow less painful recovery of the economy.

The growth in the number of anticompetitive practices, cases of abuse of dominant position (price increases), as well as signs of cartels sets the antimonopoly authority tasks – on the one hand, to suppress anticompetitive manifestations, and on the other hand, to stimulate economic recovery with minimal losses, taking into account ensuring a balanced policy between promoting business, especially medium and small, and helping consumers and citizens.

As in previous economic crises, the efforts of competition authorities to promote and protect competition will play a critical role in managing the impact of the crisis and creating the best conditions for economic recovery.

The role of competition policy in promoting economic recovery

In 2020, the global economy was in a state of recession due to a shocking threat. The reason for this was that many countries around the world, against the backdrop of the pandemic of the new coronavirus infection COVID-19, took preventive measures, which significantly affected the economy. The states closed borders, stopped air traffic, introduced self-isolation and quarantine regimes.

Restrictive measures taken to contain the spread of the coronavirus infection have resulted in a temporary but significant decline in economic activity.

In the short term (March-May 2020), the main problem that all market participants had to face was the rupture of supply chains, the suspension of a significant number of markets, especially service markets, and the termination of international transport communications.

In general, an analysis of the economic situation in the world and in Russia makes it possible to identify the following key factors that negatively affect the Russian economy in the current period and its development:

- 1) the pandemic of the new coronavirus infection COVID-19 and its consequences;
- 2) instability of the world oil market;
- 3) the crisis in the development of small and medium-sized businesses.

Despite the fact that the coronavirus pandemic isolated a number of countries and stopped most of the processes, at the same time it also allowed enterprises in various sectors of the economy to discover a "new plane" of opportunities.

At the present time, e-commerce, delivery and logistics are developing at a high rate. In fact, in the absence of any development, business is adapting to new conditions, responding to the challenges that have arisen and thus forming a "remote economy", and taking another big step towards global digitalization.

It is currently indisputable that the pandemic has accelerated the "fourth industrial revolution", which, in turn, undoubtedly leads the economies of all countries of the world, without exception, to global changes.

For Russia, such changes, on the one hand, exacerbate pre-existing threats to the country's economic development, and on the other hand, open up tremendous opportunities for the accelerated development of both the "digital sectors" of the economy, and for the rapid transformation of "non-digital" industries into a format that meets the demands of the already established digital reality.

At the same time, in the context of the constantly increasing influence of new technologies on most economic processes, the speed of decision-making on the

timely transformation of the sectors of the Russian economy directly correlates with the possibility of achieving the goal of economic leadership.

In the current situation, it is obvious that the world has changed and the scale of the shock is so great that the economy requires comprehensive long-term measures.

That is why the measures taken by the state should have a stimulating effect in the long term, with an emphasis on sectors whose situation has deteriorated critically. In order to build the economy of the future, it is necessary to create an institutional economic basis for change at the first stage of 2021 – 2022.

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The FAS Russia, as a guarantor of compliance with antimonopoly legislation, protects not only the economic structure of markets that find themselves in a difficult situation during a pandemic, but also stimulates measures that allow less painful recovery of the economy. The growth in the number of anticompetitive practices, cases of abuse of dominant position (price increases), as well as signs of cartels sets the antimonopoly authority tasks - on the one hand, to suppress anticompetitive manifestations, and on the other hand, to stimulate economic recovery with minimal losses, taking into account ensuring a balanced policy between promoting business, especially medium and small, and helping consumers and citizens¹.

The main activity of the FAS Russia, both during the crisis caused by the COVID-19 pandemic and after it, is the implementation of powers related to the prevention and suppression of actions restricting competition on the part of economic entities, natural monopolies and authorities.

In order to adapt during the pandemic, the FAS Russia identified the priority areas of its activities: it quickly managed to focus its work on the analysis of markets for socially significant goods, essential goods, medicines and other goods, the demand for which has increased due to the current circumstances. In the course of monitoring the pricing processes during the COVID-19 pandemic, the FAS Russia and its regional offices, starting from mid-March, monitored the prices of these goods on a daily basis, and immediately checked any operational information about cartels,

¹ Irina Knyazeva "The Scylla and Charybdis of antitrust enforcement in the context of the socio-economic crisis caused by the COVID-10 pandemic" (The "Russian competition law and economy" journal)

unjustified price increases, creating a data deficit product markets or the implementation of concerted actions.

Careful control of the FAS in conjunction with the Ministry of Health of the market of medical masks, an indispensable product in a pandemic, allowed to reduce prices by 3-4 times. In addition, three cartels of medical mask manufacturers and retailers have been identified in various regions of our country.

It should be noted that in order to more closely monitor the social sphere, the FAS Russia carried out internal institutional changes: Head of the Department for Control of the Social Sphere, Trade and Non-production services, Timofey Nizhegorodtsev, was appointed as a Deputy Head of the FAS Russia, as well as in the structure of the authority a new Department for Control over Public Health Service was created.

Upon detection or receipt of information about signs of violations, the issue of taking response measures was immediately resolved. One of the effective means was the issuance of warnings, which made it possible to suppress the uncontrolled rise in prices for a number of food and other socially significant goods.

In addition, the FAS initiated cases on the signs of violations of the antimonopoly legislation in the market of bread and flour products. One of them concerned an alleged cartel of bread suppliers in one of the Russian regions, when they simultaneously raised prices of bread up to 20%. The second case related to coordination of prices of bread, when the Union of Consumer Cooperation Organizations in another region issued an order addressed to district consumer associations with recommendation to increase wholesale prices for bread by 10%. In connection with the start of grain trading on the stock exchange, the FAS sent a letter to the custodians of the Federal Intervention Fund for agricultural products on the inadmissibility of setting monopolistically high prices and imposing unfavorable conditions of the contract, and jointly with the Prosecutor's office issued warnings to the violators.

It is important to note that the FAS Russia responded promptly to the crisis challenges and took a number of actions to remove the administrative burden on business and form a set of supportive institutional measures in addition to those announced by the President and the Government of the Russian Federation².

These include the deferrals and installments announced by the FAS Russia for the payment of imposed fines to temporarily ease the financial burden on entrepreneurs, proposals to temporarily freeze the indexation of wholesale gas prices for the population, approaches to the consideration of complaints about public procurement

² Federal Law No. 124-FZ dated April 24, 2020 "On Amendments to Certain Legislative Acts of the Russian Federation on Ensuring Sustainable Development of the Economy in the Context of Deteriorating Situation Due to the Spread of a New Coronavirus Infection": <http://www.kremlin.ru/acts/news/63261> (Russian version only)

and procurement of state-owned companies, and initiation of cases of administrative offences.

For a while, we suspended the appointments and inspections to ease the precarious situation in which enterprises found itself. The only exception are inspections and dawn raids initiated on the signs of violations of laws related to protecting the life and health of citizens, legislation on public procurement and legislation on state defense orders. Such inspections are conducted by the FAS in close cooperation with prosecutors, which was a direct request from the President of the Russian Federation.

In addition, in the beginning, we addressed the market participants to postpone, where possible, the merger notification filing with the agency and informed them about possible delays in review. However, currently, during the phase-out of restrictive measures due to the pandemic, we resumed the full and comprehensive M&A consideration in a standard way. During the pandemic, the Commission on Monitoring Foreign Investment under the Government of the Russian Federation held a session in absentia and considered 5 transactions of foreign investors in strategic industries.

It is important to note that there is no nationalization of companies. On December 27, 2019, Federal Law No. 485-FZ "On Amendments to the Federal Law "On State and Municipal Unitary Enterprises" and Federal Law No. 135-FZ dated July 26, 2006 "On Protection of Competition" was adopted, which prohibits the creation and implementation of activities of unitary enterprises in competitive markets. In accordance with the law, the antimonopoly body is empowered to issue a warning about the liquidation of a unitary enterprise or about the termination of activities carried out in violation of the requirements of the Federal Law, and the founders of the unitary enterprises are obliged to comply with these warnings.

At the same time, work is constantly being done to improve legislation and other regulatory legal acts in order to ensure freedom of competition and effective protection of entrepreneurship. This area of activity is becoming more and more relevant and necessary during the period of economic recovery.

For example, in pursuance of this goal, the FAS Russia prepared the draft law "On Amending the Law "On Protection of Competition" in terms of the possibility of economic entities creating "purchasing alliances" for the purpose of joint purchase or sale (supply) of goods. The cases of admissibility of such agreements are determined by the Government of the Russian Federation.

This draft law is primarily aimed at supporting small and medium-sized enterprises and expanding their capabilities.

One of the most important tasks facing the FAS Russia during the crisis is the competition advocacy in order to realize the importance of maintaining a competitive economy by the business community.

That is why a comprehensive information on the FAS activities in a pandemic is published on its official website (on the official website of the FAS Russia a special section was created "Measures of the FAS Russia in connection with the COVID-19 pandemic³") and in social networks, and the agency's officials are holding numerous briefings, press conferences and meetings with businesses focusing public attention on the importance of competition and unacceptability of its rules' violation, not simply because it can jeopardize markets, but also because it's inappropriate to profit from suffering and fear of citizens. Currently, the FAS Russia motto is "The crisis is not a reason to get rich".

On March 27, 2020, FAS Head Igor Artemiev attended a briefing held at the press center of the Russian Government and reported about the results of daily monitoring of the market of socially significant food products, about inspections of producers of cereals, sugar, buckwheat and other products, about gas prices. On May 2020, the FAS Stats-Secretary - Deputy Head Andrey Tsarikovsky, and Head of the FAS Anti-cartel department Andrey Tenishev held a press conference and reported on the agency's measures taken to prevent unjustified price increases and inspections conducted jointly with prosecutors.

On July 23, 2020, within the framework of the Russian Federation's chairmanship in BRICS in 2020, a meeting of the Heads of the BRICS Competition Authorities was held, following which a Joint Statement on consolidating efforts to combat the negative economic consequences of COVID-19 was adopted⁴.

The FAS also launched a special hotline that can be used by any resident of the country, any enterprise. Having received information about a possible violation or the existing shortage of any product, the FAS immediately takes control of the situation.

We also created an operational headquarters at the premises of the FAS, which monitors prices and the absence or presence of a shortage of goods daily. The experts of our central office and 84 regional offices monitor prices on markets of socially important goods, the list of which was established by the Russian Government, as well as on markets of other goods and services that allegedly have increase of speculation in prices.

³ <https://fas.gov.ru/pages/mery-v-svjazi-s-pandemiej-covid-2019>

⁴ <http://en.fas.gov.ru/documents/documentdetails.html?id=15358>

We monitor prices of the same goods from different vendors or regions and make these price comparisons public. Thereafter, the prices of the goods are often being adjusted in a proper way.

As you may see, our goal is not ex-post punishment, but advocacy efforts that help us to prevent price speculations. We think that the institution of warning, which we can issue not only to businesses, but also to public authorities, is one of the most effective tools in this regard.

For example, in order to prevent speculation with vital goods and to avoid rush demand, FAS issued warnings to organizations and executive authorities on the inadmissibility of the statements on unjustified price increases or a shortage of goods in certain markets.

Moreover, FAS has recommended that Internet services and e-platforms in their work shall take into account the facts that may lead to shortages, rush demand, higher prices for essential goods, and develop reasonable measures to prevent such behavior when carrying out their commercial activities.

On September 23, 2020, the Government of the Russian Federation approved the National Action Plan to ensure the restoration of employment and incomes of the population, economic growth and long-term structural changes in the economy.

The goal of the National Plan is to enter a sustainable economic growth and growth of incomes of the population, ensuring the implementation of national goals of economic development based on the use of new technologies, including digitalization, new opportunities for the labor market and education, fast and high-quality housing construction, export orientation and active import substitution, and also ensuring a high degree of resilience of the economy and health care system to possible shocks in the future.

According to this Plan, the FAS Russia is responsible for the implementation of one of the key initiatives to accelerate the technological development of the economy and increase labor productivity, including on the basis of digitalization, namely, for the definition of antimonopoly requirements for the activities of digital platforms, rules for controlling transactions of economic concentration in the context of digitalization of markets, peculiarities of suppression of anticompetitive agreements concluded and implemented using digital technologies.

The FAS Russia is a member of the Governmental Subcommittee on Protective Measures in Foreign Trade and Customs and Tariff Policy, which was formed in 2004 with the aim of ensuring coordinated actions of interested federal executive bodies in resolving issues of customs and tariff regulation of the import of goods into the customs territory of the Russian Federation and export of goods from this

territory, as well as the introduction and application of special protective, anti-dumping and countervailing measures when importing goods.

Within the framework of the functioning of this Commission, the tasks of the FAS Russia are:

- preservation and maintenance of a normal competitive environment in the domestic market of the Russian Federation;
- assistance in increasing the competitiveness of Russian goods both in domestic and foreign markets, while preventing unjustified protectionism;
- ensuring the protection of consumer interests;
- assessment of the consequences of the measures taken for competition in order to timely raise the issue of changing the protective measures of the internal market.

In order to achieve uniformity in antimonopoly response measures, the FAS Russia is liberalizing its procurement system. In all regions of the Russian Federation, explanations of the FAS Russia were adopted for the heads of regional offices of the FAS Russia, in which COVID-19 is recognized as unforeseen circumstances. It is proposed to take these recommendations into account when considering complaints, cases of administrative offences, appeals about inclusion in the register of unfair suppliers, and conducting inspections. For example, public procurement participants who have not fulfilled their obligations due to the coronavirus may refer to it as force majeure. The FAS will take this into account when making decisions, for example, on inclusion in the register of unscrupulous customers or suppliers.

Maintaining competition over the long term is essential for the functioning of markets, consumer welfare, innovation, employment and economic growth. As in previous economic crises, the efforts of competition authorities to promote and protect competition will play a critical role in managing the impact of the crisis and creating the best conditions for economic recovery.

In conclusion, it should be emphasized that during the crisis, on the one hand, the FAS Russia strives to comply with a soft regulatory regime for respectable market participants, and, on the other hand, the agency prevents violations, especially in socially significant markets, which is currently especially important.