



**International  
Competition  
Network**

**ANTI-CARTEL  
ENFORCEMENT  
TEMPLATE**

**CARTELS WORKING GROUP  
Subgroup 2: Enforcement Techniques**

**Russian Federation**

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# ICN ANTI-CARTEL ENFORCEMENT TEMPLATE

## IMPORTANT NOTES:

This template is intended to provide information for the ICN member competition agencies about each other's legislation concerning hardcore cartels. At the same time the template supplies information for businesses participating in cartel activities about the rules applicable to them; moreover, it enables businesses which suffer from cartel activity to get information about the possibilities of lodging a complaint in one or more jurisdictions.

Reading the template is not a substitute for consulting the referenced statutes and regulations. This template should be a starting point only.

## 1. Information on the law relating to cartels

<b>A. Law(s) covering cartels:</b>	Federal Law № 135-FZ dated 26.07.2006 „On Protection of Competition”; Federal Law № 160-FZ dated 17.07.2009 «On Amendments to the Code of Administrative Offences and Certain Legislative Acts of the Russian Federation»; Federal Law № 2016-FZ dated 29.07.2009 «On Amendments to the Article 178 of the Criminal Code of the Russian Federation».
<b>B. Implementing regulation(s) (if any):</b>	Order of the FAS Russia № 340 dated 25.05.2012 "On approval of the Administrative Rules of the Federal Antimonopoly Service on the State Function of investigate compliance with the Antitrust Laws of the Russian Federation"; Order of the FAS Russia № 339 dated 25.05.2012 "On approval of the Administrative Rules of the Federal Antimonopoly Service on execution of State Function of initiation and review of cases of violations of the Antimonopoly Legislation of the Russian Federation"; Guidelines on the procedure for imposing penalties on Legal Entities for administrative offenses (internal document) № IA / 1099 dated 19.01.2012.
<b>C. Interpretative guideline(s) (if any):</b>	Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation № 30 dated 30.06.2008 (ed. from 14.10.2010) "On some issues arising in connection with implementation of the Antimonopoly

	Legislation by Arbitration Courts"
<b>D. Other relevant materials (if any):</b>	The Federal Antimonopoly Service of the Russian Federation has initiated a project <a href="http://www.anticartel.ru">www.anticartel.ru</a> , referring to the anti-cartel activity. The project is aimed at different audiences and gives a clear idea of what is the cartel and how to fight it.

## 2. Scope and nature of prohibition on cartels

<p><b>A. Does your law or case law define the term “cartel”?</b> <b>If not, please indicate the term you use instead.</b></p>	<p>According to the Article 11 of the Federal Law "On Protection of Competition" - "Agreements between economic entities or concerted practices of economic entities in the goods markets are forbidden if such agreements or concerted practices lead or can lead to:</p> <ol style="list-style-type: none"> <li>1) establishment or maintaining of prices (tariffs), discounts, markups (extra charges), and margins;</li> <li>2) raising, lowering, or maintaining of prices at tenders;</li> <li>3) division of the goods market according to the territorial principle, the volume of sales or purchases of commodities, the range of sold products or composition of sellers or purchasers (customers);</li> <li>4) reducing or terminating production of the goods;</li> <li>5) refusing to conclude contracts with particular sellers or buyers (customers)."</li> </ol> <p>According to the Article 4 of the Federal Law № 135-FZ of 26.07.2006 "On Protection of Competition" agreement - is a written understanding contained in a document or several documents, as well as verbal understanding.</p> <p>Cartel in the Russian Federation are prohibited «per se».</p>
<p><b>B. Does your legislation or case law distinguish between very serious cartel behaviour (“hardcore cartels” – e.g.: price fixing, market sharing,</b></p>	<p>The legislator has identified five main types of cartels:</p> <ol style="list-style-type: none"> <li>1. Fixing prices;</li> <li>2. Bidrigging;</li> <li>3. Market sharing;</li> <li>4. The reduction or elimination of production of goods;</li> </ol>

<b>bid rigging or production or sales quotas<sup>1</sup>) and other types of “cartels”?</b>	<p>5. Refusal to enter into contracts with certain sellers or buyers (customers).  Cartel is considered as one of the most dangerous economic crimes.  All cartels are prohibited «per se» and they are especially dangerous.</p>
<b>C. Scope of the prohibition of hardcore cartels:</b>	See the 2B.
<b>D. Is participation in a hardcore cartel illegal <i>per se</i></b>	Participation in a cartel is prohibited by Law and subject to an administrative and (or) criminal prosecution.
<b>E. Is participation in a most dangerous cartel a civil or administrative or criminal offence, or a combination of these?</b>	<p>Criminal liability (Article 178 of the Criminal Code) occurs if the act caused large or very large damage to individuals, organizations or the state, or resulted in gaining income of large or very large amount – five and twenty five million rubles, respectively.</p> <p>Major damage is the damage, the amount of which exceeds one million rubles, and especially large damage - three million rubles.</p> <p>The most severe penalty provided under the Article 178 of the Criminal Code is imprisonment for up to seven years.</p> <p>So far, The Federal Antimonopoly Service of the Russian Federation imposed only administrative responsibility on organizers of cartel.</p> <p>If The Federal Antimonopoly Service of the Russian Federation finds signs of a criminal offense, the materials of the case are passed to the Ministry of Internal Affairs / Investigative Committee of the Russian Federation.</p>

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<sup>1</sup> In some jurisdictions these types of cartels – and possibly some others – are regarded as particularly serious violations. These types of cartels are generally referred to as “hardcore cartels”. Hereinafter this terminology is used.

### 3. Investigating institution(s)

<b>A. Name of the agency, which investigates cartels:</b>	The Federal Antimonopoly Service the Russian Federation (the FAS Russia).
<b>B. Contact details of the agency:</b>	Sadovaya-Kudrinskaya St., 11, Moscow, Russian Federation Phone: +7 (499) 755-2323 Fax: +7 (499) 755-23-24 or (499) 755-23-23 (tone. № 3) Checking passage Fax: (499) 755-23-23 (tone. № 4) E-mail: international@fas.gov.ru Official website: www.fas.gov.ru Site operates in English and Russian languages.
<b>C. Information point for potential complainants:</b>	<a href="http://www.fas.gov.ru/cartel/index.shtml">http://www.fas.gov.ru/cartel/index.shtml</a> <a href="http://anticartel.ru/">http://anticartel.ru/</a> <a href="mailto:delo@fas.gov.ru">delo@fas.gov.ru</a>
<b>D. Contact point where complaints can be lodged:</b>	Mr. Andrey Tenishev, Head of Anti-Cartel Department of the Federal Antimonopoly Service of the Russian Federation (Russian-speaking) E-mail: <a href="mailto:tenishev@fas.gov.ru">tenishev@fas.gov.ru</a> , <a href="mailto:delo@fas.gov.ru">delo@fas.gov.ru</a> , <a href="mailto:international@fas.gov.ru">international@fas.gov.ru</a>
<b>E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.</b>	Yes. 1. Ministry of Internal Affairs; 2. Investigative Committee of the Russian Federation; 3. The Federal Security Service.  These Government Authorities can promote: the research for information in the investigation; provide enforcement assistance when needed; prosecute.

## 4. Handling complaints and initiation of proceedings

<p><b>A. Basis for initiating investigations in cartel cases:</b></p>	<p>An anti-cartel case can be initiated in the following situations:</p> <ol style="list-style-type: none"> <li>1. receipt of documents (further on referred to as documents) indicating the signs of violation of the antimonopoly legislation from state bodies or bodies of local self-government;</li> <li>2. an application from a legal person or a physical person (further on referred to as the application);</li> <li>3. detection by the antimonopoly body of the signs of violation of the antimonopoly legislation;</li> <li>4. mass media reports, natural and legal persons' reports pointing out the signs of violation of the antimonopoly legislation;</li> <li>5. findings of an inspection, that revealed the facts of violating the antimonopoly legislation by commercial organizations, noncommercial organizations, federal executive bodies, the authorities of the constituent territories of the Russian Federation, local self-government bodies, other agencies or organizations exercising the functions of the above bodies, and state extra-budgetary funds.</li> </ol>
<p><b>B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)?</b></p>	<p>Yes, required.</p> <p>Complaint / application is submitted in a written form to the The Federal Antimonopoly Service of the Russian Federation should contain the following requirements:</p> <ol style="list-style-type: none"> <li>1) information about the applicant (Surname, first name and residence address of individual, the name and location for legal entities);</li> <li>2) information about the person, in respect of which the application was made;</li> <li>3) a description of antimonopoly infringement;</li> <li>4) essence of requirement filled by applicant;</li> <li>5) list of attached documents.</li> </ol>
<p><b>C. Legal requirements for lodging a complaint against a cartel:</b></p>	<p>Each complaint is a subject of examination.</p>
<p><b>D. Is the investigating agency obliged to take action on each complaint that it receives or does it have discretion in this respect?</b></p>	<p>The Federal Antimonopoly Service of the Russian Federation is obligated to consider the complaint and inform the applicant about the results.</p> <p>In case of detection of violation of the Antimonopoly</p>

	Legislation the Federal Antimonopoly Service of the Russian Federation initiates an investigation.
<b>E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?</b>	Yes.
<b>F. Is there a time limit counted from the date of receipt of a complaint by the competition agency for taking the decision on whether to investigate or reject it?</b>	Yes. The Federal Antimonopoly Service of the Russian Federation examines an application or documents within the period of one month from the date of their submission. In the case of lack or absence of evidence that let the antimonopoly body come to the conclusion that there are or there are no elements of violation of the antimonopoly legislation the antimonopoly body has the right to prolong the period of examination of application or documents for not more than two months. The applicant is informed about the prolongation of the period of examination of application or documents in written form by The Federal Antimonopoly Service of the Russian Federation.

## 5. Leniency policy<sup>2</sup>

<b>A. What is the official name of your leniency policy (if any)?</b>	Mitigation of responsibility for anti-competitive agreements in the Russian Federation is provided by the Code of Administrative Offences of the Russian Federation. This norm doesn't have a special name.
<b>B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction / fine), depending on the case?</b>	Only the first applicant gets full exemption. The second and all subsequent applicants can receive mitigation from administrative liability.
<b>C. Who is eligible for full leniency?</b>	A person (a group of persons defined in accordance with the anti-monopoly legislation of the Russian Federation) that has voluntarily applied to the Federal Antimonopoly Service of the Russian Federation or its territorial body to report that he/she/it has concluded an agreement which is inadmissible according to the antimonopoly legislation of the Russian Federation or has committed coordinated actions which are inadmissible in accordance with the antimonopoly legislation of the Russian Federation shall be relieved of administrative accountability for the administrative offences envisaged by Parts 1 and 3 of the

<sup>2</sup> For the purposes of this template the notion of 'leniency' covers both full leniency and a reduction in the sanction or fines. Moreover, for the purposes of this template terms like 'leniency' 'amnesty' and 'immunity' are considered as synonyms.

	<p>present Article, provided the following conditions are observed in their entirety:</p> <p>as of the time of the person's report the Federal Antimonopoly Service of the Russian Federation did not have relevant information and documents concerning the administrative offence committed;</p> <p>The person has refused to take part or to continue taking part in the agreement or to implement or continue implementing the coordinated actions;</p> <p>the information and documents that have been presented are sufficient for the purpose of establishing the event of the administrative offence.</p> <p>Relief from administrative accountability shall be granted to the person that was the first to comply with all the conditions set out in the present note.</p>
<p><b>D. Is eligibility for leniency dependent on the enforcing agency having either no knowledge of the cartel or insufficient knowledge of the cartel to initiate an investigation?</b></p> <p><b>In this context, is the date (the moment) at which participants in the cartel come forward with information (before or after the opening of an investigation) of any relevance for the outcome of leniency applications?</b></p>	<p>Yes, see 5C.</p> <p>The cartel participant may be exempted only if he applies to the Federal Antimonopoly Service of the Russian Federation before the decision will be made.</p>
<p><b>E. Who can be a beneficiary of the leniency program (individual / businesses)?</b></p>	<p>Legal entity, official (management) of the legal entity.</p>
<p><b>F. What are the conditions of availability of full leniency:</b></p>	<p>See 5C.</p>
<p><b>G. What are the conditions of availability of partial leniency (such as reduction of sanction / fine / imprisonment):</b></p>	<p>To reduce the size of the punishment can expect legal entities, which access the second and further to the list. For leniency compulsory conditions are:</p> <ol style="list-style-type: none"> <li>1. the voluntary termination of wrongful behaviour by the person that has committed an administrative offence;</li> <li>2. the voluntary provision of information about an administrative offence by the person that has committed the administrative offence to a body empowered to carry out proceedings in a case of the administrative offence;</li> <li>3. the assistance of the person that has committed an administrative offence rendered to a body empowered to carry out proceedings in a case of the administrative</li> </ol>

	<p>offence in establishing the circumstances that are to be established in the case of the administrative offence;</p> <p>4. the prevention of harmful circumstances of an administrative offence by the person that has committed the administrative offence;</p> <p>5. voluntary compensation by the person that has committed an administrative offence for inflicted damage or voluntary elimination of inflicted harm;</p> <p>6. the voluntary performance by the person that has committed an administrative offence -- before the issuance of a decision in a case of the administrative offence -- of an order for elimination of committed offence issued by a body responsible for state control (supervision);</p> <p>7. the person who committed the violation, not the organizer of competition-restricting agreements or concerted actions and (or) received binding instructions to participate into it;</p> <p>8. the person who committed the violation has not started to fulfill his reached agreement which restricting competition.</p>
<p><b>H. Obligations for the beneficiary after the leniency application has been accepted:</b></p>	<p>Commitments for the person receiving leniency (after his release from administrative liability) mean that a person will assist that it stops taking a part in anti-competitive agreements and concerted actions.</p>
<p><b>I. Are there formal requirements to make a leniency application?</b></p>	<p>Yes. The procedure for the adoption of appropriate applications defined by the Order of the FAS Russia dated 26.09.2008 № 369.</p>
<p><b>J. Are there distinct procedural steps within the leniency program?</b></p>	
<p><b>K. At which time during the application process is the applicant given certainty with respect to its eligibility for leniency, and how is this done?</b></p>	<p>The applicant may be exempted only according with requirements specified in paragraph 5C.</p>
<p><b>L. What is the legal basis for the power to agree to grant leniency? Is leniency granted on the basis of an agreement or is it laid down in a (formal) decision? Who within the agency decides about leniency applications?</b></p>	<p>The legal basis for the provision of condescension (leniency) is enshrined in the Code of Administrative Offences of the Russian Federation.</p> <p>The Commission recognizes the violation and an official of the Federal Antimonopoly Service of the Russian Federation (the head or deputy head) makes a decision on the amount of the fine based on the facts established by the the Federal Antimonopoly Service of the Russian Federation.</p>
<p><b>M. Does your legislation have a marker system? If yes, please describe it.</b></p>	<p>In the framework of Russian legislation is the main marker of the receipt of the written application from an economic entity to the FAS Russia and/or its territorial bodies on</p>

	<p>release from administrative liability.</p> <p>The obligation to receive allegations of agreements and concerted practices that restrict competition and prohibited by the antitrust laws of the Russian Federation entrusted personally to one of the Deputy Head of the FAS Russia and the Head of the Anti-Cartel Department of the FAS Russia.</p> <p>The moment of receiving of such application is recorded in a special register, as well as being a strict accounting of this information.</p> <p>Applicant's submitted application receives a record on a copy of its statement and a unique registration number that such application is taken.</p>
<b>N. Does the system provide for any extra credit<sup>3</sup> for disclosing additional violations?</b>	No.
<b>O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.</b>	<p>Yes. Reception, registration and storage of applications in accordance with the rules of registration and storage of documents for internal use only organizes by Anti-Cartel Department of the FAS Russia.</p> <p>Information concerning the applicant may be disclosed to third parties only by the request of the court.</p>
<b>P. Is there a possibility of appealing an agency's decision rejecting a leniency application?</b>	Yes, judicially.
<b>Q. Contact point where a leniency application can be lodged:</b>	<p>Andrey Tenishev, head of anti-cartel of the Federal Antimonopoly Service of the Russian Federation (Russian-speaking)</p> <p>E-mail: <a href="mailto:tenishev@fas.gov.ru">tenishev@fas.gov.ru</a>, <a href="mailto:delo@fas.gov.ru">delo@fas.gov.ru</a></p> <p>Sadovaya-Kudrinskaya St., 11, Moscow, Russian Federation</p>
<b>R. Does the policy address the possibility of leniency being revoked? If yes, describe the circumstances where revocation would occur. Can an appeal be made against a decision to revoke leniency?</b>	According to the Russian Federation legislation reviewing decisions can't aggravate the situation of the petitioner.
<b>S. Does your policy allow for "affirmative leniency", that is the possibility of the agency</b>	No.

<sup>3</sup> Also known as: "leniency plus", "amnesty plus" or "immunity plus". This category covers situations where a leniency applicant, in order to get as lenient treatment as possible in a particular case, offers to reveal information about participation in another cartel distinct from the one which is the subject of its first leniency application.

approaching potential leniency applicants?

## 6. Investigative powers of the enforcing institution(s)<sup>4</sup>

<p><b>A. Briefly describe the investigative measures available to the enforcing agency such as requests for information, searches/raids<sup>5</sup>, electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.</b></p>	<p>The Federal Antimonopoly Service of the Russian Federation has the power to carry out the following activities:</p> <ul style="list-style-type: none"><li>- require documents, explanations and information in written or oral form (including commercial information, official or other secrets protected by law);</li><li>- request an information from individuals and legal entities;</li><li>- carry out scheduled and unscheduled inspections ("dawn raids") of legal entities and public authorities;</li><li>- inspect of territories and premises of legal entities, documents and objects of the audited entity;</li><li>- involve specialists/experts with special knowledge when necessary;</li><li>- analyze and use information from public sources.</li></ul> <p>These measures do not require judicial authorization.</p>
<p><b>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this require authorisation by a court?</b></p>	<p>No. The Federal Antimonopoly Service of the Russian Federation carries out inspections, inspection of territories and rooms, premises of documents only of a legal entity. If necessary the Federal Antimonopoly Service of the Russian Federation has the right to apply to law enforcement Agencies to make appropriate investigative actions.</p>
<p><b>C. May evidence not falling under the scope of the authorisation allowing the inspection be seized / used as evidence in another case? If yes, under which circumstances (e.g. is a post-search court warrant needed)?</b></p>	<p>In case of carrying out the investigation or review the competition authority discovers signs of antimonopoly violations on the other commodity markets, such evidence may be allocated to another case or investigation if necessary.</p>
<p><b>D. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.</b></p>	<p>No.</p>

<sup>4</sup> "Enforcing institutions" may mean either the investigating or the decision-making institution or both.

<sup>5</sup> "Searches/raids" means all types of search, raid or inspection measures.

## 7. Settlement

<p><b>A. Does your competition regime allow settlement?</b></p> <p>If yes, please indicate its public availability (link to the relevant rules, guidelines, etc.).</p>	<p>A special settlement procedure or a pre-court agreement conclusion is not provided within the competition legislation of the Russian Federation.</p> <p>However, after hearing of an anti-competitive case within the process of bringing of the legal entity to administrative responsibility, the cartel participant may effect actions, which can <b>be cumulated with a leniency reward.</b></p> <p><b>Apart from relieving provisions since 2012 the Code of Administrative Offences of the Russian Federation has extended the list of circumstances mitigating administrative accountability. Among them: voluntarily acknowledgement of the Federal Antimonopoly Service of the Russian Federation of committing an administrative offence by the person, who has committed such offence, collaboration with Competition Authority in conducting investigation, etc.</b></p> <p><b>Under the given circumstances, the Federal Antimonopoly Service of the Russian Federation may decide to reduce the fine. The leniency does not revoke a person's right to apply court.</b></p>
<p><b>B. Which types of restrictive agreements are eligible for settlement [e.g. hardcore cartels, other types of cartels, vertical agreements only ...]?</b></p>	<p>See 7 A.</p>
<p><b>C. What is the reward of the settlement for the parties?</b></p>	<p>See 7 A.</p>
<p><b>D. May a reduction for settling be cumulated with a leniency reward?</b></p>	<p>See 7 A.</p>
<p><b>E. List the criteria (if there is any) determining the cases which are suitable for settlement.</b></p>	<p>See 7 A.</p>
<p><b>F. Describe briefly the system [who can initiate settlement –</b></p>	<p>See 7 A.</p>

your authority or the parties, whether your authority is obliged to settle if the parties initiate, in which stage of the investigation settlement may be initiated, etc.].	
G. Describe the procedural efficiencies of your settlement system [e.g. shorter decision, etc.].	See 7 A.
H. Does a settlement necessitate that the parties acknowledge their liability for the violation?	See 7 A.
I. Is there a possibility for settled parties to appeal a settlement decision at court?	See 7 A.

## 8. Commitment

A. Does your competition regime allow the possibility of commitment?  If yes, please indicate its public availability [link to the relevant rules, guidelines, etc.].	<b>Within the competition legislation of the Russian Federation this procedure (commitment) is not applied to the cartel or any other anticompetitive cases.</b>
B. Which types of restrictive agreements are eligible for commitment [e.g. hardcore cartels, other types of cartels, vertical agreements only ...]?  Are there commitments which are excluded from the commitment possibility?	See 8 A.
C. List the criteria (if there are any) determining the cases which are suitable for commitment.	See 8 A.
D. Describe, which types of commitments are available under your competition law.[e.g.: behavioural / structural]	See 8 A.
E. Describe briefly the system [who can initiate commitment – your authority or the parties, in which stage of the investigation commitment	See 8 A.

may be initiated, etc.]	
I. Does a commitment decision necessitate that the parties acknowledge their liability for the violation?	See 8 A.
J. Describe how your authority monitors the parties' compliance to the commitments.	See 8 A.
K. Is there a possibility for parties to appeal a commitment decision at court?	See 8 A.

## 9. Procedural rights of businesses / individuals

<b>A. Key rights of defence in cartel cases:</b>	From the moment of initiating the violation of the antimonopoly legislation case persons participating in the case have the right to familiarize themselves with the materials of the case, to make abstracts from them, to give evidence and to familiarize themselves with the evidence, to put questions to the other Participants, to enter petitions, to give written and oral explanations to the Commission, to present their arguments on all questions arising in the course of examination of the case, to familiarize themselves with the petitions entered by the other persons, to object to the other Participants' of the case petitions, arguments. (Part 1, Article 43 of the Federal Law "On Protection of Competition").
<b>B. Protection awarded to business secrets (competitively sensitive information): is there a difference depending on whether the information is provided under a compulsory legal order or provided under informal co-operation?</b>	The Federal Antimonopoly Service of the Russian Federation does not disclose the commercial and other legally protected information in all cases.

## 10. Limitation periods and deadlines

<p><b>A. What is the limitation period (if any) from the date of the termination of the infringement by which the investigation / proceedings must begin or a decision in the merits of the case must be made?</b></p>	<p>A case on violating the antimonopoly legislation cannot be initiated and an open case should be closed on expiration of three years after the violation of the antimonopoly legislation was committed, and in case of an ongoing violation of the antimonopoly legislation - after the date the violation was stopped or discovered. (Article 41.1 of the Federal Law "On Protection of Competition").</p> <p>In case of criminal proceedings against cartel participants, conducted by law enforcement Agencies, the statute of limitations is no more than 10 years.</p>
<p><b>B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision in the merits?</b></p>	<p>The Cartel case is examined by the Commission within three months period from the date of issuing the order to initiate proceedings. In some cases involving a necessity of getting more information by the antimonopoly body as well as in the cases established in this Chapter the mentioned period may be prolonged by the Commission but not longer than for six months. The total period may not be more than 9 months.</p>
<p><b>C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an investigation or a decision regarding sanctions?</b></p>	<p>Decisions or determinations of the Federal Antimonopoly Service of the Russian Federation can be appealed within three months from the date when the decision was adopted and the determination was issued. The appeal to a court of law or an arbitration court suspends the fulfillment of the determination issued by the antimonopoly body for the period of its examination in a court of law until the court's ruling comes into legal force.</p>

## 11. Types of decisions

<p><b>A. Please list which types of decisions on the merits of the case can be made in cartel cases under the laws listed under Section 1.</b></p>	<p>The Federal Antimonopoly Service of the Russian Federation has the right to take:</p> <ul style="list-style-type: none"><li>- the decision on initiation of the case of violation of the antimonopoly legislation;</li><li>- the decision on refusal of initiation of the case of violation of the antimonopoly legislation;</li><li>- the decision on recognition of violations of the antimonopoly legislation;</li><li>- the decision on dismissal of the case due to lack of violation of the antimonopoly legislation.</li></ul>
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<b>B. Please list which types of decisions on the merits of the case can be made in hardcore cartel cases under the laws listed under Section 1 (if different from those listed under 10/A).</b>	See 11A.
<b>C. Can interim measures<sup>6</sup> be ordered during the proceedings in cartel cases? (if different measures for hardcore cartels please describe both<sup>7</sup>.) Which institution (the investigatory / the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?</b>	Not applicable.

## 12. Sanctions for procedural breaches (non-compliance with procedural obligations)<sup>8</sup>

<b>A. Grounds for the imposition of procedural sanctions / fines:</b>	Failure to fulfill determination, instruction, motivated requirement, failure of presentation of data at the request of the Federal Antimonopoly Service of the Russian Federation is the basis for imposing of procedural sanctions.
<b>B. Type and nature of the sanction (civil, administrative, criminal, combined):</b>	Administrative Law.

<sup>6</sup> In some jurisdictions, in cases of urgency due to the risk of serious and irreparable damage to competition, either the investigator or the decision-making agency may order interim measures prior to taking a decision on the merits of the case [e.g.: by ordering the immediate termination of the infringement].

<sup>7</sup> Only for agencies which answered “yes” to question 2.C. above

<sup>8</sup> In some jurisdictions, failure to comply with procedural obligations (for example, providing information requested belatedly provision of false or incomplete information, the lack of notification, failure to provide information, obstruction of justice, destruction of evidence, to challenge the validity of documents giving the right to carry out investigative activities, etc. ) may result in the imposition of penalties.

C. On whom can procedural sanctions be imposed?	On company's officers, heads or/and legal entities.
D. Criteria for determining the sanction / fine:	Penalties imposed in accordance with Articles 19.4, 19.4.1, 19.8 of the Code of Administrative Offences of the Russian Federation.
E. Are there maximum and / or minimum sanctions / fines?	<p>Yes.</p> <p>Non-fulfilment, at the established time, of a legal decision or order of the Federal Antimonopoly Service of the Russian Federation or its territorial body on termination of competition-restraining and/or coordinated actions and on the performance of actions aimed at ensuring competition, or of a legal decision or order of the federal antimonopoly body or its territorial body issued in the exercise of control over the use of state or municipal preference on the performance of actions stipulated by the antimonopoly legislation of the Russian Federation - shall entail the imposition of an administrative fine on officials in the amount of eighteen thousand to twenty thousand roubles or disqualification for a period of up to three years; on legal entities - from three hundred thousand to five hundred thousand roubles.</p> <p>Failure to provide or late proving to the federal antimonopoly body or its territorial body of the data (information) stipulated by the antimonopoly legislation of the Russian Federation, including non-submission of data (information) at the request of the said bodies, except for the cases stipulated by Items 3 and 4 of this Article, as well as the submission of knowingly unreliable data (information) to the federal antimonopoly body or its territorial body - shall entail the imposition of an administrative fine on citizens in the amount of one thousand five hundred to two thousand five hundred roubles; on officials - from ten thousand to fifteen thousand roubles; on legal entities - from three hundred thousand to five hundred thousand roubles (Part 5, Article 19.8):</p> <p>Failure to pay the administrative fine within the time limit fixed by this Code, - shall involve the imposition of the double amount of the unpaid administrative fine, but at least a thousand roubles, or an administrative arrest for a period of up to fifteen days. (Part 1, Article 20.25).</p>

### 13. Sanctions on the merits of the case

A. Type and nature of sanctions in cartel cases (civil, administrative,	There are 2 types of sanctions: Administrative and legal sanctions (may be imposed on officials and legal entities)
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<p><b>criminal, combined):</b> <b>On whom can sanctions be imposed?</b></p>	<p>and criminal sanctions (can only be imposed on officials).</p> <p>Administrative and legal sanctions include: administrative fines and disqualification. They are imposed on officials and legal entities.</p> <p>Criminal sanctions include: fine, prohibition to hold certain positions / engage in certain activities; forced labor (mandatory / corrective work); imprisonment.</p>
<p><b>B. Criteria for determining the sanction / fine:</b></p>	<p>The punishment is determined by the methodology recommendations on the calculation of the value of the administrative penalty, calculated from the amount of revenue the offender and imposed on legal entities for administrative offenses.</p> <p><b>Mitigating circumstances:</b></p> <ol style="list-style-type: none"> <li>1. voluntary termination of illegal behavior by the person who committed an administrative violation;</li> <li>2. voluntary reporting by person who committed an administrative violation to the Authority authorized to carry out the proceedings of an administrative violation, about the administrative violation;</li> <li>3. rendering the person who committed an administrative violation, promote to the Authority authorized to carry out the proceedings of an administrative violation, to establish the circumstances to be established in the case of an administrative violation;</li> <li>4. preventing the person who committed the violation, harmful effects;</li> <li>5. voluntary compensation by the person who committed the violation caused damage or voluntary elimination of the caused damage;</li> <li>6. voluntary compliance to a ruling in the case of an administrative violation by the person who committed an administrative violation provisions to eliminate the violation issued to it by Authority exercising state control (supervision);</li> <li>7. the person who committed the violation, not the organizer of competition-restricting agreements or concerted actions and (or) received binding instructions to participate into it;</li> </ol> <p>the person who committed the violation has not started to fulfill his reached agreement which restricting competition.</p> <p><b>Aggravating circumstances:</b></p> <ol style="list-style-type: none"> <li>1. continuation of illegal behavior, despite the</li> </ol>

	<p>requirements of authorized persons to stop it;</p> <ol style="list-style-type: none"> <li>2. recommission of uniform administrative violation, if for committing the first person has already been subjected to administrative punishment for which is not expired, provided for in Article 4.6 of the Administrative Code;</li> <li>3. continuation of violation, duration of which exceeds more than one year;</li> <li>4. caused in the result of the violation damage to individuals, organizations or the state in the amount of 1 000 000, or extraction of the income of more than 5 000 000;</li> <li>5. commitment of the violation by two or more persons belonging to a group of persons determined in accordance with the antimonopoly legislation of the Russian Federation;</li> <li>6. organization by the person who committed the violation, limiting competition agreements and coordinated actions;</li> <li>7. forcing by the person who committed an administrative offense, other persons to commit a crime or to continue participation in the competition-restricting agreements or concerted actions.</li> </ol>
<p><b>C. Are there maximum and / or minimum sanctions / fines?</b></p>	<p>Yes. Administrative responsibility: a fine on officials in the amount from 20 000 to 50 000 rubles or disqualification for up to three years; for legal entities - from 1% to 15% of the income of the violator from selling goods (works, services), or the size of the expenditure of the offender for the purchase of goods (works, services) on the market where the administrative offense, or from 10% to 50% the initial value of the bid, but not less than 100 000 rubles.</p> <p>If the offender is a multiproduct company or an administrative offense is committed in the market of goods (works, services), the implementation of which is carried out at regulated under the laws of the Russian prices (tariffs) - the penalty can range from 0.3% to 3% of the size of the sum Revenue violator from selling goods (works, services) on the market where the administrative offense, or the size of the expenditure of the offender for the purchase of goods (works, services) on the market where the administrative offense, but not less than 100 000 rubles.</p> <p><b>Criminal liability:</b> the minimum sanction - a fine from 300 000 to 500 000 rubles or in the amount of wages or other income for a period from one to two years, or community service for up to three years with deprivation of the right to occupy</p>

	<p>certain positions or engage in certain activities up to one year;</p> <p>the maximum sanctions: punishable by imprisonment for up to 7 years, with deprivation of the right to occupy certain positions or engage in certain activities for a term of one to three years.</p>
<b>D. Guideline(s) on calculation of fines:</b>	For the calculation of the fine the Federal Antimonopoly Service of the Russian Federation uses special Guidelines approved by the letter of the FAS Russia № IA / 1099 from 19.01.2012.
<b>E. Does a challenge to a decision imposing a sanction / fine have an automatic suspensory effect on that sanction / fine? If it is necessary to apply for suspension, what are the criteria?</b>	Appeal against the decision of the antimonopoly authority and definitions arbitration court suspend the execution of the decision of the antimonopoly authority during its consideration by the court as long as the decision of the court will not enter into force.

## 14. Possibilities of appeal

<b>A. Does your law provide for an appeal from a decision that there has been a violation of a prohibition of cartels? If yes, what are the grounds of appeal, such as questions of law or fact or breaches of procedural requirements?</b>	<p>According to Article 52 of the Law "On Protection of Competition" Decisions or determinations of the antimonopoly body can be appealed within three months from the date when the decision was adopted and the determination was issued. The appeal to a court of law or an arbitration court suspends the fulfillment of the determination issued by the antimonopoly body for the period of its examination in a court of law until the court's ruling comes into legal force.</p> <p>Citizens, organizations and other entities may apply to the arbitration court to invalidate the non-legislative acts, illegal decisions and actions (inaction) of bodies exercising public authority officials, if they think that the contested normative legal act, decision and action (inaction) does not comply with the law or other normative legal act and violate their rights and legitimate interests in the field of business and other economic activities, illegally impose on them any obligations created other obstacles for business and other economic activities.</p>
<b>B. Before which court or agency should such a challenge be made?</b>	The Court of Arbitration