

## Competition Law Enforcement in Retail Trade

**1. Provision of the Law on Commerce.** According to the Federal Law "On Basis of State Regulation of Commercial Activities in the Russian Federation" dated December 28, 2009 No. 381-FZ (hereinafter - the Law on Commerce), the FAS Russia executes control over compliance with the rules and requirements set by the law and concerning:

- rights and obligations of entities engaged in commercial activity (including in the retail sector), and food products suppliers related to the conclusion and execution of supply contracts;
- antitrust rules for entities engaged in commercial activity and suppliers of food products;
- restriction on the acquisition and lease of additional commercial facilities (space) by entities engaged in the retail trade of food products;
- antitrust requirements on the authorities in the field of regulation of their activity in the trade sphere.

In case of violation of these provisions, the FAS Russia has the right to issue relevant prescriptions within its competences.

Thus, if we talk about antitrust requirements imposed on the authorities, the Law on Commerce establishes requirements in the field of regulation of commercial activities, including retail. The authorities are prohibited from adopting acts or carrying out actions (omissions) that lead or may lead to the establishment in the market of special rules, in particular it is prohibited to lay on the commercial entities a duty of undergoing repeat inspections or of selling goods at the prices established by the authorities. It is also forbidden to impose prohibitions or limits to the free movement of goods within the territory of the Russian Federation, to discriminate commercial entities in getting access to the transport and infrastructure objects.

The retailers in their turn are prohibited from purchasing or renting additional selling space within the subject of the Russian Federation for any reason, if the share of these retail chains exceeds 25% of volume of all the food products sold within the given subject. Transactions that violate this prohibition are void.

Besides, the retailers selling food products (as well as the economic entities engaged in supplying food products to retailers), are prohibited from:

- 1) creating discriminatory conditions (defined by the Federal Law of July 26, 2016 No. 135-FZ "On Protection of Competition");
- 2) creating barriers to access to the commodity market or exit from the commodity market of other economic entities;
- 3) violating the legally established pricing procedure;
- 4) imposing certain conditions on counterparties, including for instance the conditions not related to the contract's subject matter, or terms prohibiting concluding agreements with of food supply with other economic entities;
- 5) concluding an agreement between themselves under which goods are handed over to a third party without transferring to such a person the ownership rights on these goods.

**2. Code of Good Practices between Chain Stores and Consumer Goods Suppliers.** In December 2012, 7 leading industrial associations and customers unions, including "Soyuzmoloko", the National Meat Association, the Union of Fish and others, together with the Consumers' Union of Russia signed the "Code of Good Practice of Relationship between Chain Stores and Consumer Goods Suppliers".

The objectives of the Code are:

- to form practices of interaction, based on principles of integrity, while negotiating and executing contracts between suppliers and chain stores, and to ensure balance of commercial interests;
- to increase the efficiency of interaction between retail chains and suppliers, and to optimise costs across the supply chain;
- to create conditions for compliance with ethical rules by all market participants while using market forces and for promoting competition in the market;
- to assist in meeting the customers' demand for high-quality consumer goods.

With the change of government regulation in the sphere of trade, together with leading industry associations of retailers and suppliers, constant work is undertaken on the Code's adaptation. At the moment, the Code's signatories are 12 largest associations, most of whom represent the retail food trade. It should be noted that the FAS Russia is considering the development of self-regulatory elements in the retail industry as a positive process that allows to quickly resolve problems for the benefit of all parties, without administrative intervention of the state.

**3. Research on the state of competition on the market of services of selling food products in the retail chains in the CIS member states (in the frame of the Headquarters of Joint Investigations of Violation of Antimonopoly Legislation in the CIS Member States).** The Report considered the approaches relating to the state regulation of the market of the food products sale in retail chains in the CIS countries. In particular, the world practice of antimonopoly regulation in the retail sector was studied; analysis of the market of services of the food products sale in retail chains in the CIS countries was conducted; analysis of existing contractual practices between suppliers of food and retail chains in the local markets was prepared.

The Research's results allowed to form recommendations for the development of competition in the sale of food products in the retail networks in the CIS countries.

The report on the research results was afterwards presented and approved by the CIS Council of Heads of Government.