Suggested issues and questions

1. Structure and ownership

a) Have there been changes in the structure of your railway system in your country since 2004 (that were not already discussed in the review of the recommendation concerning structural separation in regulated industries)? Are plans to change the structure of your railway system being discussed? Do any significant changes seem imminent?

- In 1996, the All-Russian Congress of Railway Workers adopted the "Guidelines for the Development of Railway Transport." This document has set out an ideology of evolutionary approach to the reform of the railway industry, taking into account the experience, not always being positive, of transformation of railway companies in developed countries.

- In 1998, the Russian Government approved the "Concept of the Structural Reform of the Federal Railway Transport" (hereinafter – the "Structural Reform").

The Concept did not specify a particular list of activities and defined only directions of reforms.

- In 2001 the Structural Reform was launched and "A Program of Structural Reform of Railway Transport" was adopted by the Russian Government. The Program consisted of three stages. The first stage included creation of Russian Railways, JSC (hereinafter – RZD), development of competition in the railway services, i.e. by creation of freight wagons operators etc. The second stage included creation of RZD's subsidiaries, phased reduction of cross-subsidy, transition to a free pricing in competitive sectors, mobilization of investments for the development of the railway industry. The third stage required the continuation of investments mobilization for railway industry development by selling of stocks of RZD's subsidiaries and others state-owned enterprises established in the railway industry.

- In 2011, the Target Model of Rail Services Market Till 2015 was adopted. It aimed at achieving the objectives of the Structural Reform of rail freight services and getting positive results in development of the railway industry up to 2015.

- Since 2012, within the Common Economic Area there has been creation of the single railway area, as a rule without exceptions and constraints.

- At the present time, as a result of the Structural Reform, the structure of the federal railway transport consists of:

- *RZD, that is the owner of the railway common use infrastructure and the main rail freight carrier;*
- *there was a lot of licensed carriers, but in fact freight services are provided only by RZD;*
- *freight wagons operators, that own wagons and provide shippers with these wagons market freight services (freight wagons operators market is very well developed in Russia, there are more than 1,700 wagons operators and wagons owners);*

- *carriers specializing in conventional intercity passenger services[1];*
- *carriers specializing in commuters services (currently there are 29 such carriers).*

- Corporatization of non-core activities was also carried out through the creation of subsidiaries. In the Russian railway the following non-core activities were corporatized:

- *enterprises specializing in wagons maintenance (including repair depots) and production of spare parts and other products for railway transport, except ones that are monopolists in this sphere.*
- *civil and construction contract organizations. Contract organizations specialized in bridges, tunnels, alarm systems and communication lines, power assembly, etc., as a rule, remain as a part of RZD;*
- *enterprises and units of the agriculture sector;*
- *other enterprises and objects of non-core activities.*

The following plans to change the structure of the Russian railway are being discussed:

- *competition among independent rail freight carriers, and between them and the major carrier;*
- *privatization of non-core activities;*
- *the FAS Russia's initiative to create the commercial infrastructure of the market[2];*
- *since 2015, introduction of international competition among rail freight carriers within the Eurasian Economic Union.*

b) Have you privatized elements of your railway systems, such as the infrastructure or parts of it, or the provider of passengers and/or freight services since 2004? Or are their plans to do so in the near future?

- Before 2004, local industrial railway infrastructure and shunting locomotives were mainly privatized.

- Since 2004, the privatized wagons stock has increased from 25% to 80%.

- The following non-core activities are still being privatized:

- *enterprises specializing in wagons maintenance (including repair depots) and production of spare parts and other products for railway transport, except ones that are monopolists in this sphere.*

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[1] The following carriers specialize in conventional intercity passenger services (Federal Passenger Company, JSC (hereinafter – FPC), Grand Express, JSC, TransClassService, CJSC, Passenger Company Sakhalin, JSC, Tver Express LLC).

[2] Commercial infrastructure of the market is an institution for interaction between market participants (wagons operators, carriers, expeditors, shippers) and main governmental institutions within "Market Council" (similar to the one, that has been successfully functioning in electroenergetics for several years). Creation of such institution is very important in the changing market conditions. (See, e.g. A. Golomolzin, G. Davydov, Rail freight services market – a step in creation of the commercial infrastructure of the market. M., 2013)

- *civil and construction contract organizations. Contract organizations specialized in bridges, tunnels, alarm systems and communication lines, power assembly, etc., as a rule, remain as a part of RZD;*
- *enterprises and units of the agriculture sector;*
- *other enterprises and objects of non-core activities.*

c) Have you brought back under control of the public sector elements of your railway systems, such as the infrastructure or parts of it, or a major operator? Or are their plans to do so in the near future?
- *No*

d) Have there been major changes in the manner in which the sector is regulated since 2004? For example has a sectoral regulator been set up (if previously there was not one)? Have you introduced, or removed, end-user price regulation for either freight or passenger services? (see below for some specific questions on access charges).
- ***Before 2004:***
- *Traditionally, end-user prices were regulated both in rail passenger and freight services.*
In the course of the Structural Reform, regulation and the phased deregulation of tariffs both in passenger and freight railway services took place.
- *the end-use tariffs for rail passenger services in third-class sleepers were regulated;*
- *rail passenger services in first-class and second-class sleepers as well as express commuters services were deregulated;*
- *rail freight wagons operators services were also deregulated.*
- ***Since 2004:***
- *an access charge for infrastructure was introduced;*
- *Since 2004, there were approximately 200 licensed entities provided rail freight services (but in fact rail freight services were provided only by RZD).*
- *Since 2012, a scope of licensing services has been substantially reduced, so, there has been licensing only with respect to dangerous goods services. RZD, as well as freight wagons operators, providing services in the field of oil, gas, etc. transportation are licensed to produce such services.*
- *Since January 2013, in rail freight services end-users tariffs were set between low and upper levels (the so-called "tariff corridor") instead of fixed end-users tariffs.*

e) What is the form of competition you primarily rely on: competition from other transport modes (i.e., "inter-modal competition") or competition from other rail operators within the rail mode (i.e., "intra-modal competition")? Does this differ across rail services (e.g. you rely on intra-modal competition for freight services and for inter-modal competition for passenger services)?

- There are both forms of competition in the Russian Federation: "inter-modal competition" and "intra-modal competition".
The inter-modal competition takes place in freight and passenger services.
- In freight services, air, water and road (trucks) transport are alternatives to the use of the railway. In some cases, the competition in the field of the road transport is intensive (the length of such competitive routes can reach up to 1500 km.).
- In passenger services, air, water and road (cars, busses, etc.) transport are also alternatives to the use of the railway.
To develop competition,
- Before 2004:
- In 2000 the former Ministry of Antimonopoly Policy of Russia offered the flexible pricing for passenger conventional intercity services, depending on a season and demand. Passenger railway services in first-class and second-class sleepers were deregulated. At the same time, customers could choose to receive services either in first-class and second-class sleepers, or in third-class sleepers. They also could choose to receive services not only in the railway transportation but also in the road/air transportation.
- Since 2004:
- Due to successful experience, flexible pricing in the regulated segment and the deregulated tariff system continued to be applied.
- Also, since 2013, a pilot draft of the "dynamic pricing" (initiated by the FAS Russia and FPC) is carried out on a number of routes. The "dynamic pricing" is a tariff setting method widely used in aviation. Within the system of the dynamic pricing, the price of tickets in first-class and second-class sleepers will be changing depending on a season, days of the week, demand and a quantity of sold places.
- A program of the dynamic pricing is applied in the deregulated segment of rail passenger services in conventional intercity passenger trains. The pilot project includes more than 100 fast passenger and passenger trains running in 10 directions (routes). Routes were selected according to the level of competition with other modes of transportation. The main directions are: "Moscow - Saint-Petersburg - Moscow", "Moscow - Smolensk - Moscow", "Moscow - Voronezh - Moscow", "Moscow - Nizhny Novgorod - Moscow" etc. In these cases competition in air and road transport in passenger services is intensive (the length of such competitive routes can reach up to 1000 km.).
- The "intra-modal competition" in passenger services is introduced as in conventional intercity services, so in commuters services.
- In conventional intercity services the main competitors for FPC are RZD and private carriers on a route of Moscow-Saint-Petersburg.
- In commuters services there are 29 carriers competing with 6-7 carriers in 5-6 regions.
- The "intra-modal competition" in rail freight services between wagons operators (more than 1700 freight wagons operators) is scaled (both countrywide and in individual regions) and very effective.

2. Competition for the provision of freight services

a) Since 2004 has (intra-modal) competition for the provision of freight services been introduced? If you already had (intra-modal) competition in the provision of freight services has this increased since 2004? What has driven this increase?

- Before 2004:

- A rail freight services end-user charge was totally regulated and consisted of three parts: a freight wagons part, an infrastructure part and a locomotive part.

Then the freight wagons part was deregulated. This concerned interaction among approximately 2100 freight wagons operators, wagons owners and shippers.

- Since 2004:

- According to the Structural Reform there was a phased liberalization of wagons operators' market.

The major part of RZD's wagons was transferred to the possession of two universal operators the First Freight Company, JSC (hereinafter – FFC), the Second Freight Company, JSC (hereinafter – SFC), and several operators specialized in rail container services, rail refrigerator services etc.

- The rest of wagons were sold on a competitive basis to the private operators.

FFC and SFC were founded as RZD's subsidiaries. In 2011 FFC was privatized.

- As a result of consolidation processes the number of freight wagons operators and wagons owners decreased from 2100 to 1700, but the freight wagons operators services market is still very competitive.

Development of this market allowed attracting investments into the sector, to upgrade wagons.

- Since 2004, the total investment reached 600-700 billion Rubles (14-15 billion Euro), more than 300 thousand new freight wagons were constructed.

- Since 2004, there were approximately 200 licensed entities providing rail freight services (but in fact rail freight services were provided only by RZD).

- Since 2012, a scope of licensing services has been substantially reduced, so, there has been licensing only with respect to dangerous goods services.

RZD, as well as freight wagons operators, providing services in the field of oil, gas, etc. transportation are licensed to produce such services.

- According to the Target Model of Rail Freight Services Market in Russia, the competition of carriers competing "in-the-market" (in the route) and competition of carriers competing "for-the-market" (for the route) are postulated.

- Some experience of the competitive relationship which is similar to the competition between carriers is accumulated. Such relationship includes:

> *- provision of freight wagons operators services similar to the provision of freight carriers services (so-called "train formations");*
>
> *- freight services being rendered from the common use infrastructure to the industrial infrastructure that can be provided either by the industrial infrastructure's owner's locomotive or by the locomotive of RZD.*

- As the international and the Russian experience shows the transaction costs in terms of new market entrants interaction can increase during the structural reforms entailed by vertical and horizontal separation. To reduce such costs and to

get all possible benefits from competition it is necessary to establish a commercial infrastructure of the market[3].

- After 2015, within the framework of establishment of the Eurasian Economic Union, and in accordance with the Agreement on Regulation of Access to Railway Services Including the Basis of the Tariff Policy of 09.12.2010, mutual access to the common use infrastructures of the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan shall be provided to carriers from these countries.

b) Is this competition primarily: for the right to provide a given set of services (i.e., "competitive tendering" or competition "for-the-market") or between rail companies that are simultaneously active in the market (i.e. competition "in-the-market")?

- The FAS Russia considers the "in-the-market" competition to be more effective and, thus, primary. The "for-the-market" competition should also be developed.

- According to the Target Model of Rail Freight Services Market in Russia, the competition of carriers competing "in-the-market" (in the route) and competition of carriers competing "for-the-market" (for the route) are declared.

- After 2015, within the framework of establishment of the Eurasian Economic Union, and in accordance with the Agreement on Regulation of Access to Railway Services Including the Basis of the Tariff Policy of 09.12.2010, mutual access to the common use infrastructures of the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan shall be provided to carriers from these countries.

c) How is this competition developing? Do you have data (e.g. on market share of the incumbent and new entrants) that show how this form of competition is performing? Have any competition cases brought to you since 2004?

- Before 2004:

- A rail freight services end-user charge was totally regulated and consisted of three parts: a freight wagons part, an infrastructure part and a locomotive part.

Than the freight wagons part was deregulated. This concerned interaction among approximately 2100 freight wagons operators, wagons owners and shippers.

- Since 2004:

- According to the Structural Reform there was a phased liberalization of wagons operators' market.

The major part of RZD's wagons was transferred to the possession of two universal operators FFC, SFC, and several operators specialized in rail container services, rail refrigerator services etc.

- The rest of wagons was sold on a competitive basis to the private operators.

FFC and SFC were founded as RZD's subsidiaries. In 2011, FFC was privatized.

- As a result of consolidation processes the number of freight wagons operators decreased from 2100 to 1700, but the freight wagons operators services market is still very competitive.

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[3] See, e.g. A. Golomolzin, G. Davydov, Rail freight services market – a step in creation of the commercial infrastructure of the market. M., 2013

Development of this market allowed attracting investments into the sector, to upgrade wagons.
- Since 2004, the total investment reached 600-700 billion Rubles (14-15 billion Euro), more than 300 thousand new freight wagons were constructed.
- Since 2004, there were approximately 200 licensed entities provided rail freight services (but in fact rail freight services were provided only by RZD).
- Since 2012, a scope of licensing services has been substantially reduced, so, there has been licensing only with respect to dangerous goods services.
RZD, as well as freight wagons operators, providing services in the field of oil, gas, etc. transportation are licensed to produce such services.
- According to the Target Model of Rail Freight Services Market in Russia, the competition of carriers competing "in-the-market" (in the route) and competition of carriers competing "for-the-market" (for the route) are declared.

- In 2011 the main carrier RZD abused its dominant position by refusing to provide freight wagons for rail freight services. More than 40 shippers addressed the FAS Russia complaining at such refusal of RZD. The FAS Russia acknowledged RZD in violating the antimonopoly law.

Ruling on imposition of penalty was issued by the FAS Russia with respect to RZD for abusing its dominant position in rail freight services in Russia.
The penalty imposed on RZD has been the largest in the railway industry and has amounted to 2,2 billion rub. (55 million Euro). Currently, RZD is appealing the FAS Russia's resolution in court. Litigation goes with varying success.

d) How has the share of rail freight services changed since 2004 with respect to other modes of transport? What has determined these changes? Do you have recent data on the evolution of this share?
- Rail freight services are the main type of the freight transportation (without taking into account the pipeline transportation) in the Russian Federation. Today they start facing competition with road transport (the length of such competitive routes can reach up to 1500 km.). Competition may happen on exact types of goods markets.

- Here are the data on the evolution of a share of rail freight services in comparison with other transportation modes since 2004 up to 2012 (without the pipeline transportation).

	2004	2005	2006	2007	2008	2009	2010	2011	2012
Total (%)	100	100	100	100	100	100	100	100	100
Road	8	9	9	8	9	8	8	9	10
Air	-	-	-	-	-	-	-	-	-
Railway	**84**	**84**	**85**	**85**	**85**	**85**	**85**	**85**	**85**
Water (sea and inner water)	7	7	6	6	6	7	7	5	5

- Air freight services share is negligible, much less than 1%

- Here are the data on the evolution of a share of rail freight services in comparison with other transportation modes since 2004 up to 2012 (with the pipeline transportation)

	2004	2005	2006	2007	2008	2009	2010	2011	2012
Total (%)	100	100	100	100	100	100	100	100	100
Road	4	4	4	4	4	4	4	5	5
Air	-	-	-	-	-	-	-	-	-
Railway	**40**	**40**	**41**	**43**	**43**	**42**	**42**	**43**	**44**
Pipeline	53	53	52	50	50	51	50	49	49
Water (sea and inner water)	3	3	3	3	3	3	3	3	2

- Air freight services share is negligible, much less than 1%

3. Competition for the provision of passenger services

a) Since 2004 has (intra-modal) competition for the provision of passenger services been introduced? If so for which services (commuters, regional low-density and conventional intercity passengers and high-speed services)? Is (intra-modal) competition in the provision of passenger services primarily: for the right to provide a given set of services (i.e., "competitive tendering" or competition "for-the-market") or between rail companies that are simultaneously active in the market (i.e. competition "in-the-market")?

- In Russia competition has been introduced for the provision of conventional intercity passenger services.

- Before 2004:

- In 2000, the former Ministry of Antimonopoly Policy of Russia offered the flexible pricing for passenger conventional intercity services, depending on a season and demand.

- Passenger railway services in first-class and second-class sleepers were deregulated.
- At the same time customers could still choose either to get services in first-class and second-class sleepers or in third-class sleepers.
- Since 2004:
- Conventional intercity passenger services (a few carriers appeared – RZD, FPC, (RZD's subsidiary), Grand Express, CJCC, Tver Express, LLC etc.).
So, the main competitors for the FPC are the RZD and private passenger carriers on a Moscow-Saint-Petersburg route. The competition on this route is "in-the-market".
- Commuters services (25 commuters carriers (shared by RZD and regional governments), 4 passenger express carriers (Interregional Passenger Company, LLC (private enterprise), Perms Express, LLC (state owned), Regional Express, LLC, Aeroexpress, JSC (50% share – RZD).
So, there are 29 carriers providing services in 70 regions. At the same time, the competition (within 6-7 carriers) is in 5-6 regions (more than 70% of total served passengers).
- The competition in commuters services "for-the-market" is declared and "in-the market" is applied, but not widely.
- Commuters services carriers were established within the framework of vertical and horizontal separation and RZD corporatization. Then, regional authorities and (lightly) private owners acquired a stake in these carriers.
Carriers operate with carriages rented from RZD.
- Tenders possibility for exclusive provision of commuters services in individual regions is discussed within a Draft of a law «On regular passengers services».It is also mentioned that for a long time the order will be placed with sole providers from among existing commuters carriers.
- Competition "in-the market"takes place between railway transportation and road (car and bus) transportation.
- Intra-modal railway competition takes place between commuters services and express commuters services (competition between carriers in 5-6 regions) as well as competition between commuters services and services in day coaches/third-class sleepers (regional low-density passenger services, main carrier is FPC). So, passenger can choose the type of carrier and/or service.

b) If you have introduced or already competition in the market for the provision of passenger services has there been entry by alternative operators since 2004? If so in the provision of which specific services (commuters, regional low-density passengers, conventional intercity passengers and high-speed services)? Have there been antitrust interventions linked to this entry?
*- **Before 2004:***
- In 2000 the former Ministry of Antimonopoly Policy of Russia offered the flexible pricing for passenger conventional intercity services, depending on a season and demand.

- Passenger railway services in first-class and second-class sleepers were deregulated.
- At the same time, customers could still choose either to get services in first-class and second-class sleepers or in third-class sleepers.
- Since 2004:
- Alternative carriers have been entering the intercity passenger services market.
2009 – Tver Express, LLC, 2010 – FPC, 2011 - TransClassService, CJSC, etc.
- Since 2004 alternative carriers have been entering the commuters services market.
2005 – Aeroexpress, JSC (50% share of RZD), 2010 – Perm Express, LLC, 2011 – Regional Express, LLC, etc.
- There have been several FAS Russia antitrust interventions.
- In 2011, the FAS Russia acknowledged FPC in violating the Federal Law "On Protection of Competition" while providing the intercity passenger services. FPC abused its dominant position by the economically and technologically unjustified cutting off the provision of services when there was a demand for such a service on the Ekaterinburg-Moscow route. According to the antimonopoly law, a penalty was imposed on FPC. FPC paid it completely without appealing in court.
- In 2011, the FAS Russia acknowledged RZD in violating the Federal Law "On Protection of Competition" (abuse of its dominant position and infringement of passengers' interests by economically and technologically unjustified cutting off the provision of services when there was a demand for such a service). RZD substituted the commuters train with a state regulated rail services charge and a capacity of more than 1000 passengers with an express train (the rail services charge was 2 times higher and the capacity was only 600 passengers). Substitution occurred in the Moscow Region in a morning "rush hour". The FAS Russia issued a resolution prescribing that a new express train had to be additional to the existing train and would not replace it. The FAS Russia's resolution was appealed and reversed by court. At the same time, an additional commuters train with a state regulated rail services charge and a capacity of more than 1000 passengers was set into the schedule in the morning "rush hour". The express train also remained in the schedule.

c) How is this competition developing? Do you have data (e.g. on market share of the incumbent and new entrants) that show how this form of competition is performing? Have any competition cases brought to you since 2004?
- Before 2004:
- At the very beginning of 2000s the provision of conventional intercity passenger services in first-class and second-class sleepers was deregulated. That led to the establishment of several private carriers and to the development of inter-modal and intra-modal competition. At the same time, customers could still choose to receive services either in first-class and second-class sleepers or in third-class sleepers.

- Since 2004:

- The main competitors for FPC are RZD and private carriers on a route of Moscow-Saint-Petersburg. A number of carriers in commuters services (mainly owned by RZD and the state, and seldom by the private sector) has emerged. There are 29 carriers providing services in 70 regions. At the same time, the competition (within 6-7 carriers) is in 5-6 regions (more than 70% of total served passengers). At the present time, a number of such carriers rendering both convenient intercity passenger services and commuters' services are increasing very slowly.

- In 2009, the FAS Russia acknowledged RZD in abusing its dominant position by imposing passenger coaches operators to sign contracts with RZD-Tour, JSC, to provide passenger services and pay 9% of the total services charge. Other entities faced serious barriers in providing rail tourist services using their own or rented wagons. The courts approved the FAS Russia's resolution.

d) Since 2004 have you been tendering franchises for the provision of passenger services? Or are you planning to introduce them? If so for the provision of which services has it been used (commuters, regional low-density passengers, conventional intercity passengers and high-speed services)?

- Since 2004, there have been no such tenders in Russia. The possibility to introduce such tenders is discussed within the Draft of the Law "On Regular Passengers Services":

- The FAS Russia considers that the market analysis and all possible potential of competition "for-the-market" and "in-the-market" should be realized.

- According to the FAS Russia's opinion, competition "for-the-market" can be effective in the sectors where subsidies are necessary and there are several bidders for service provision. One of the tender criteria may be the minimization of budget expenditures. Detailed requirements for bidders and the terms of contracts signed after tenders should be established.

- In the FAS Russia's opinion, the competition "in-the market" can be effective if a market analysis shows necessary conditions for inter-modal and intra-modal competition. If competition is restricted, the tariff regulation should be applied. At the same time, such regulation should elastically reflect all changes in demand and supply. Tariffs should be deregulated when there is competition. Modern pricing methods such as the "dynamic pricing"(widely used in aviation) should be applied. The dynamic pricing should be the benchmarking for the pricing in the state regulated rail services.

- The FAS Russia considers that modernization of the legislation should also be aimed at establishment of the transportation services standards, including the minimum social transportation standards.

- At the present time, the mechanism of placing an order for the exclusive right to serve the area in conventional intercity passenger and commuters services is discussed. Minimization of budget expenditures is not a criteria when tendering "in-the market" and for a long time the order will still be placed with sole providers from among existing intercity passenger and commuters carriers.

The FAS Russia considers that this mechanism is effective. International experience shows that the greatest effect is reached by saving budget funds.
- The FAS Russia also considers that in the regulated segment the tariffs should be set at economically sound level and in the competitive segment at market costs. There should also be provision of budget allocations within the direct subsidizing of certain categories of passengers and/or to objects of common use infrastructure.
- The scheme proposed by the FAS Russia will allow to optimize budget spending as well as to provide subsidies to those who need them.

e) Have tenders been used only for the provision of socially supported services (i.e. subsidized services) or have they also been used for the provision of profitable passenger services?
- There have been no socially supported services tenders in Russia.
- At the same time, since 1999, in other services of the railway industry, according to the Regulation of the Government of the Russian Federation, natural monopoly holders were recommended to carry out procurement of goods (services) for their own consumption in accordance with the procedure provided for the placement of orders for goods, works and services for state needs. This regulation was of a recommendatory nature.
- At the present time, tenders in other services of the railway industry are held according to the Federal Law "On Procurement of Goods, Works and Services by Certain Types of Legal Entities".
The Law obliges natural monopolies to procure goods, works and services required for implementation of regulated activities, through a tender process.
- According to this Law, all information on tenders is posted in the Internet. Business entities-natural monopolies have developed the Procurement Regulations, which regulate the procurement activities of the customer and contain requirements for procurement, the conditions of their use, etc.
- The FAS Russia considered a number of cases brought against natural monopoly holders in connection with violation of the Law "On Protection of Competition" (antimonopoly requirements for bidding).
- In October 2010, the FAS Russia acknowledged RZD in violation of the Law "On Protection of Competition". The violation of the Law consisted in taking actions (lack of action) during the bidding, that lead or may lead to the prevention, restriction or elimination of competition.

f) How effective has the use of tenders been? Have you regularly had more than two bidders? Have there been cases of collusion?
- In the fields of the railway industry where tenders are held, they are held more often than 2 times a year. As a rule, there are more than 2 bidders in such tenders. Tenders could be more effective if open transparent terms of tenders have not been violated.
- In October 2012, the FAS Russia acknowledged FPC in violating the Federal Law "On Protection of Competition" while holding an open tender on provision of

maintenance services and electric/electronic equipment repair of passenger wagons of all types in 2012-2026. Having informed about the tender, FPC initiated some changes in the tender's documentation and toughened the qualifying criteria for bidders. One of such changing criteria was an increased experience in provision of maintenance services. The FAS Russia detected that Transport Repair Company, LLC was the only business entity having a sufficient level of experience in provision of maintenance services. Such level of experience was explained by the fact that Transport Repair Company, LLC had been providing the same services to FPC since 2010. The FAS Russia decided to file a lawsuit to invalidate the tender held by FPC and the resulting contract. The FAS Russia appealed the court to break off the contract.

g) Do winners of tenders have to provide their own trains and personnel? If so, has this been a barrier to entry in your experience?
- *There have been no such tenders in Russia.*
- *In other fields of the railway industry the tenders are held. Carrier can make requirements concerning personnel. At the same time, such requirements are not barriers to entry into the market because according to the Russian legislation a carrier must guarantee provision of services on an economically sound price.*

h) What are the main characteristics of these tenders (e.g. length and criteria used for selecting the bids)?
- *There have been no tenders for passenger services provision in Russia.*
- *The possibility to introduce such tenders is discussed within the Draft of the Law "On Regular Passengers Services":*
- *The FAS Russia considers that the market analysis and all possible potential of competition "for-the-market" and "in-the-market" should be realized.*
- *According to the FAS Russia's opinion, competition "for-the-market" can be effective in the sectors where subsidies are necessary and there are several bidders for service provision. One of the tender criteria may be the minimization of budget expenditures. Detailed requirements for bidders and the terms of contracts signed after tenders should be established.*
- *In the FAS Russia's opinion, the competition "in-the market" can be effective if a market analysis shows necessary conditions for inter-modal and intra-modal competition. If competition is restricted, the tariff regulation should be applied. At the same time, such regulation should elastically reflect all changes in demand and supply. Tariffs should be deregulated when there is competition. Modern pricing methods such as the "dynamic pricing"(widely used in aviation) should be applied. The dynamic pricing should be the benchmarking for the pricing in the state regulated rail services.*
- *The contracts with tenders' winners should be signed for the period of no less than 5 years.*

i) Have you experienced problems in the design and the use of tenders? If so, which? How are you planning to address them?

- Since 1999, according to the Regulation of the Government of the Russian Federation, natural monopoly holders were recommended to carry out procurement of goods (services) for their own consumption in accordance with the procedure provided for the placement of orders for goods, works and services for state needs. This Regulation was of a recommendatory nature.

- In July 2011, the Federal Law "On Procurement of Goods, Works and Services by Certain Types of Legal Entities" was adopted, that obliges natural monopoly holders to procure goods, works and services required for implementation of regulated activities, through a tender process.

- According to this Law, all information about the tenders is posted in the Internet, business entities-natural monopoly holders have developed the Procurement Regulations, which regulate the procurement activities of the customer and contain the requirements for procurement, the conditions of their use, etc.

- The FAS Russia considered a number of cases brought against natural monopoly holders in connection with violations of the Law "On Protection of Competition" (antimonopoly requirements to bidding).

- In October 2010, the FAS Russia acknowledged RZD in violation of the Law "On Protection of Competition". The violation of the Law consisted in taking actions (lack of action) during the bidding that lead or may lead to the prevention, restriction or elimination of competition.

- In 2009-2010, the Central Directorate for repair of freight wagons (a branch of RZD) held two public tenders for the right to enter into service contracts for maintenance of equipment for wagon repair enterprises. FAS Russia established that, in spite of the fact that the subject matter of these tenders was the same work, the procedure used by RZD included a different procedure for determining the winner, and both tenders were won by the same entity. Thus, information on the procedure of determining the winner of the tender was not brought to the business entities wishing to take part in the bidding. The FAS Russia appealed the court to break off the contract.

j) If you tender socially supported services (i.e. subsidized services) has the level of subsidies decreased following the introduction of tenders? If so by how much?

- There have been no such tenders in Russia.

k) If you do not tender socially supported services how do you determine the amount of subsidies needed to ensure their provision?

- The socially supported services tariff is set on a socially solvent level. The state regulator (the FST Russia) also set the economically sound level of tariffs. The difference between the tariffs (the so called dropping-out revenue) gets compensated from the federal budget. Since 2011, in commuters services 99,9 % of payment for infrastructure (access charge) is paid from the state budget. 0,01% of access charge is paid by the carrier itself.

- The FAS Russia also considers that in the regulated segment the tariffs should be set at economically sound level and in the competitive segment at market costs. There should also be provision of budget allocations within the direct subsidizing of certain categories of passengers.
- The FAS Russia suggests the following arrangements for three categories of routes:
- for passenger routes without alternative types of transportation – 50% of the train coaches should be third-class sleepers, the tariff should be state regulated.
- for passenger routes where the passenger carrier has a market force among all types of transportation – 30-50% of the train coaches should be third-class sleepers, the tariff can be state regulated.
- for the passenger routes with inter-modal competition, 30% of the train coaches should be third-class sleepers, the tariff should be deregulated.

l) How has the share of rail passenger services changed since 2004 with respect to other modes of transport? What has determined these changes? Do you have recent data on the evolution of this share?
- The share of rail passenger services remains pretty high in Russia. Nowadays, it sees the rising of competition in the field of road passenger services and especially in air passenger services.

To develop competition,
- Before 2004:
- In 2000, the former Ministry of Antimonopoly Policy of Russia offered the flexible pricing for passenger conventional intercity services, depending on a season and demand. Passenger railway services in first-class and second-class sleepers were deregulated. At the same time, customers could choose either to get services in first-class and second-class sleepers or in third-class sleepers. They also could choose to receive services not only in the railway transportation but also in the road/air transportation.
- Since 2004:
- Due to successful experience, flexible pricing in the regulated segment and the deregulated tariff system continued to be applied.
- Also, since 2013, a pilot draft of the "dynamic pricing" (initiated by the FAS Russia and FPC) is carried out on a number of routes. The "dynamic pricing" is a tariff setting method widely used in aviation. Within the system of the dynamic pricing, the price of tickets in first-class and second-class sleepers will be changing depending on a season, days of the week, demand and quantity of sold places.
- A program of dynamic pricing is applied in the deregulated segment of rail passenger services in conventional intercity passenger trains. The pilot project includes more than 100 fast passenger and passenger trains running in 10 directions (routes). Routes were selected according to the level of competition with other modes of transportation. The main directions are: "Moscow - Saint-

Petersburg - Moscow", "Moscow - Smolensk - Moscow", "Moscow - Voronezh - Moscow", "Moscow - Nizhny Novgorod - Moscow", etc.

- Due to the introduction of the dynamic pricing, in 2013, FPC expects to have increase in the number of passengers up to 4-5% in a deregulated segment of transportations.

- The FAS Russia considers that the dynamic pricing should be benchmarking for the pricing in state regulated rail services.

- Here are the data on the evolution of the rail passenger services share in comparison with other transportation modes since 2004 up to 2012.

	2004	2005	2006	2007	2008	2009	2010	2011	2012
Total (%)	100	100	100	100	100	100	100	100	100
Road	39,5	34	31,7	29,2	27,8	28,8	32,9	31,1	28,1
Air	20,2	21,9	23,5	27,5	29,6	30,3	34,4	37,4	41,3
Railway	**40**	**43,9**	**44,5**	**43,1**	**42,4**	**40,7**	**32,5**	**31,3**	**30,5**
Water (sea and inner water)	0,3	0,3	0,2	0,3	0,2	0,2	0,2	0,2	0,1

4. Access charges[4]

a) The railway infrastructure has typically high fixed costs and low operating costs. This implies that access charges (when these are necessary) must include a mark-up to allow for the recovery of fixed costs, unless the shortfall is paid for through public funds. If access charges are paid by railway operators in your country how are access charges currently set? Do access charges include a mark-up for fixed costs and, if so, how is this determined? If not, how are fixed costs recovered by the infrastructure manager? Is the mark-up different between providers of passenger and freight services? And if so why? Is the mark-up different depending on the route to which access is given?

- In accordance with the Federal Law "On Natural Monopolies" regulated tariffs in Russia should support both operation and development of regulated entities. When making decisions on tariffs, also the measures of state support for the development of infrastructure are primarily taken into account.

- In the rail freight services in Russia RZD sets a tariff for shippers. This tariff consists of 3 parts: the freight wagons part, the infrastructure part and the locomotive part. When the shipper uses wagons of the wagons operators or wagons owners the tariff consists of 2 parts: joint infrastructure + locomotive part and the wagons part.

- In the rail passenger services carrier sets a tariff for end-users. This tariff consists of 4 parts: the passenger coach part, the infrastructure part, the locomotive part and the railway station part. At the same time, the rail passenger

[4] When the rail network is run by an entity which is separate from the operator(s) who provide services on it, the latter have to pay a charge to gain access to the network. This charge contributes to the cost of running the network.

carrier pays RZD (the owner of infrastructure) for the infrastructure and the railway station. So, in the rail passenger services the access charge is the aggregate charge (for the infrastructure and the railway station).

- These access charges are averaged for the network. The implementation of differential charges on local routes of the common use infrastructure directed on their development and capacity increase is discussed in the field of rail freight services. Such implementation will help to widen the "bottle-necks" of the infrastructure.

- In conventional intercity passenger services the payment for infrastructure and railway station (the access charge) is paid by the carrier to RZD.

- Since 2011, in commuters services 99,9 % of the payment for infrastructure and the railway station (the access charge) that is to be paid by carrier to RZD, is covered from the state budget. 0,01% of the access charge is paid by the carrier to RZD. The reduction of such budget coverage is discussed.

b) If there is structural separation in your country has this made access charges easier or harder to design and implement?

- In the Russian Federation, there is structural separation both in freight services and passenger services.

The separation in freight services (infrastructure + carrier and wagons operators) differs from one in passenger services (infrastructure, carrier and wagons operators).

- The structural separation makes access charges easier. It helps to make access charges more economically sound and transparent.

c) Have you had cases in which discriminatory pricing (through mark-ups for fixed costs) have been a way to disguise an abuse of market power?

- As a fixed payment for infrastructure (the access charge) is set by the regulator authority (the FST Russia), there was no discriminatory pricing before 2013.

With that, since 2013, the FST Russia has set price limits (maximum and minimum) for charges on rail freight services for network average conditions; introduction of the discriminatory pricing by RZD is possible.

- At the same time, it should be noted that these charges may be reviewed for compliance with antimonopoly law at the request of Russian, Belarusian and Kazakh consumers.

5. Investments

a) Railway infrastructure requires constant investments. Who ensures that these investments take place and at an efficient level?

- The procedure of making decisions on investments in the railway infrastructure is the following. The railway carrier draws an investment plan. Then the plan is discussed by the Board of Directors, including representatives of the Russian Government. Everyone reviews a plan within their own jurisdiction. The Ministry of Economic Development examines investments issues (macro-economic and

micro-economic consequences get assessed), the Ministry of Transportation (achievement of long-term goals of sectoral development), and the FST Russia (checking for validity of tariff proposals).

b) Who undertakes these investments (public sector, private sector or their combination)?

- *These investments are mostly undertaken by:*
  - *a public sector (the federal budget);*
  - *RZD (investments are made from the Company's profits);*
  - *a private sector (a few infrastructure projects).*
- *There are projects that will be financed by a combination of public/private investments. One of such projects is the railway Kyzyl-Kuragino. The project is adopted by the Russian Government. Investments will be based on the so-called public/private partnership (public-50%, private-50%).*

c) Has this changed since 2004 and, if so, how?

- *Since 2004, there has been a discussion on making private sector investments more common. In this connection, the necessary legislation is being elaborated in the Russian Federation.*
- *The Road Map "On Development of Competition" prescribes the implementation of a long-term tariff policy on railway services.*

The main objectives of the Road Map are the following:

  - *development of the railway infrastructure and related markets objects;*
  - *forming of sustainable and favorable terms for private investments into the railway industry construction;*
  - *development of the state support mechanisms for the growth of investment attractiveness of infrastructural industries.*
- *The implementation of differential charges on local routes of the common use infrastructure directed on their development and the capacity increase is discussed in rail freight services. Such implementation will help to widen the "bottle-necks" of the infrastructure.*
- *Decisions on freight rail services tariffs will be made through setting:*
- *reduced tariffs, if private investments are attracted and the cost of borrowed funds invested in the common use railway infrastructure owned by a regulated entity or controlled by it on the basis of other proprietary right is recovered due to reduced tariffs for the rail freight services to an investor;*
- *increased tariffs, when funding is made by a regulated entity or by private investors and the funds invested into the common use railway infrastructure, including the cost of borrowed funds are recovered through increased tariffs for the rail freight services to non-investors.*

6. High-Speed Rail Services

a) High-speed rail passenger services are becoming more widespread. Are these provided on the network in your country?

- Since the end of 2010 ***speed rail passenger services*** *have been introduced only on two directions in the Russian Federation: Moscow-Saint-Petersburg and Saint-Petersburg-Helsinki.*
- Moscow-Saint-Petersburg, the highest speed is 250 km/h, the only carrier is RZD.
- Saint-Petersburg-Helsinki, the highest speed is 220 km/h, the only carrier is Oy Karelian Trains Ltd.
- The infrastructure is primarily used by rail freight and passenger services. There is no specialized, dedicated infrastructure for high-speed services.

b) Do you regulate fares for these services? Or do you plan to do so? If not, do you consider that competition from other modes of transportation is sufficient to constraint them?
- No, the tariffs for these services are not regulated.

c) The infrastructure for the provision of high-speed rail services requires considerable investments. Who is funding them (public sector, private sector or a combination)?
- The renovation (modernization) of the existed infrastructure was funded by the public sector and RZD.

d) Is the provision of high speed rail services open to competition? Has there been entry and if so when? How is this competition developing? Do you have data (e.g. on market share of the incumbent and new entrants) that show how this form of competition is performing?
- The provision of high speed rail services is open to competition, but there are no new operators because of the lack of infrastructure (no specialized infrastructure) and a high cost of wagons.

e) What competition issues have arisen, if any, and are these different from those that would occur with
- competition in speed rail services in Russia is "inter-modal" and "intra-modal". The speed trains compete with airplanes (Moscow-Saint-Petersburg, Saint-Petersburg-Helsinki) ("inter-modal") and with other carriers ("intra-model").
- because of the absence of specialized rail infrastructure, the speed trains embarrass the freight, convenient intercity and commuters rail services.

- Creation of ***high-speed passenger rail services*** *is discussed in the Russian Government. It is included in the Transport Strategy of the Russian Federation up to 2030.*
- The main idea is that these services will be provided on the respective infrastructure and the highest speed will be up to 350-400 km/h.
- According to the Strategy, certain high-speed railroads, i.e. Moscow-Kazan, should be constructed by 2018.