

REPORT OF THE FEDERAL ANTIMONOPOLY SERVICE ON COMPETITION POLICY IN 2006

Introduction

1. Competition policy in the Russian Federation is carried out taking into account practice of the previous years, national economic priorities and production pattern that has been formed in the country. The proposed measures should contribute to enhancement of efficiency of the bodies of state authority and local self-government in the conditions of market economy, development of competition in the Russian markets and increase of competitive capacity of the home producers.

2. Implementation of functions and objectives of the antimonopoly control and supervision is aimed at ensuring the principles established in the Constitution of the Russian Federation: community of the economic area, free circulation of commodities, freedom of economic activity, protection of competition, creation of conditions for effective functioning of the commodity markets, as well as equal access to commodities (services) produced by the subjects of natural monopolies and development of competition in their potentially competitive sectors.

3. The report contains review of the main alterations in the current Russian legislation on competition, information on the scale of the practice of implementation of the antimonopoly bodies' functions, examples of the cases initiated on the basis of the most typical and common infringements of the antimonopoly legislation.

I. Alterations in Competition Legislation and Policy (proposed and adopted)

Review of the new legal norms of the competition legislation and legal and normative acts (secondary law) connected with it

4. The federal law of 26.07.2006 №135-FZ "On Protection of Competition" (hereinafter referred to as the law "On Protection of Competition") came into force on 26.10.2006. The law had been elaborated by the FAS of Russia with assistance of the federal bodies of executive authority and Bank of Russia. The law clarified legal basis of the state competition policy, improved and renewed legal tools for suppression and prevention of monopolistic activity and anti-competitive activity of authority, unified legal regulation connected with protection of competition in commodity and financial markets. As soon as the law came into force the law of the RSFSR of 22.03.91 № 948-1 "On Competition and Restriction of Monopolistic Activity in the Commodity Markets" and the federal law of 23.06.99 № 117-FZ "On Protection of Competition in the Financial Services Market" became invalid. The law "On Protection of Competition" was introduced at the meeting of the OECD Committee on competition in October 2006.

5. The federal law of 09.04.2007 №45-FZ "On introduction of alterations in the Code of Administrative Infringements of the Russian Federation" was elaborated by the FAS Russia with the assistance of the federal bodies of executive authority and Bank of Russia and came into force on 13.05.2007. The law toughened administrative responsibility for non-observance of the legal decision and direction of the antimonopoly body; introduced direct administrative responsibility for abuse of dominant position, conclusion of agreements restricting competition (implementation of concerted practices) and unfair competition; introduced penalties calculated out of the total sales proceeds of the infringer in the commodity market where the infringement had taken place and also gave possibility to disqualify officials for the period up to three years (for specified infringements).

6. Decision of the Government of the Russian Federation of 20.02.2006 №94 “On the Federal Body of Executive Authority Authorized to Implement Control in the Sphere of Placement of Orders for Goods, Works and Services for the Federal State Needs” was adopted and came into force on 08.03.2006. The law empowered the FAS Russia to monitor compliance with the federal law of 21.07.2005 № 94-FZ “On Placement of Orders for Goods, Works and Services for State and Municipal Needs”, excluding the competence to exercise control in the sphere of defense order.

7. “Water Code of the Russian Federation” of 03.06.2006 №74-FZ elaborated with the FAS Russia assistance came into force on 01.01.2007. Article 16 of the Code defined competition principle of selection of claimants for water use and article 40 extended application of the antimonopoly legislation to the sphere of water use.

8. The Federal law of 21.07.2005 № 113-FZ “On Introduction of Alterations in the Law “On advertising” and article 14.3 of the Code of Administrative Infringements of the Russian Federation” which increased the amount of fine for violation of the legislation on advertising in 10 times had been elaborated by the FAS of Russia and came into force on 25.01.2006.

9. The federal law of 13.03.2006 №38-FZ “On Advertising” (hereinafter referred to as the law “On Advertising”) came into force on 01.07.2006 (except some particular provisions of articles 14, 20 and 23). The revised law retained the previous conceptual approaches towards regulation of relations in the sphere of advertising and contained a number of new provisions, videlicet the definition of advertising was changed and it was clarified which information was not advertising; norms preventing spread of latent advertising were introduced; requirements to advertising of a number of products were introduced, extended and clarified; requirements on the volume of the TV advertising were toughened; procedure of counter-advertising was changed, etc.

10. In order to create conditions for development of competition the FAS Russia took part in elaboration of a number of normative and legal acts which are of great importance for the Russian economy:

in the sphere of industry

The FAS Russia assisted in elaboration of the Decree of the President of the Russian Federation of 20.02.2006 № 140 “On the open-end company “United Aircraft Building Corporation” which was created on the basis of the leading undertakings-designers and producers of civil and defense aviation with the aim of raising of competitive capacities of the home aircraft building;

in the sphere of communications

The FAS Russia assisted in elaboration of the Decision of the Government of the Russian Federation of 23.01.2006 №8 “On Adoption of the Rules of Conducting Tenders for Licenses on Communication Services Provided on the Territory with Limited Resources of Communications Networks with the Use of Radiofrequency Spectrum” aimed at expansion of the sphere of application of competition principles of selection of operators under the conditions of limited resources;

in the sphere of power industry

The FAS Russia assisted in elaboration of the Decision of the Government of the Russian Federation of 06.05.2006 №273 “On Introduction of Alterations in the Decision of the Government of the Russian Federation of 27.12.2004 №854” which defined the list of subjects of the market of operative-dispatch management services in power industry, their structure and zones of dispatcher’s responsibility;

in the sphere of building

The FAS Russia assisted in elaboration of the Decision of the Government of the Russian Federation of 13.02.2006 №83 “On Approval of the Rules of Defining and Providing of Technical Conditions for Connection of the Objects of Capital Construction to Technical Networks and Rules of Connection of the Objects of Capital Construction to Technical Networks” lack of which promoted monopolistic activity in the relevant services market;

in the sphere of gas supply using trunk pipelines

The FAS Russia assisted in elaboration of the Decision of the Government of the Russian Federation of 02.09.2006 № 534 “On Conducting Experiment on Selling Gas at the Electronic Sale” which expanded the area of competitive relations. Control over the tenders is implemented by a working group under the Ministry of Industry and Energy and a representative of the FAS Russia is included into the group;

in the sphere of perfection and improvement of investment mechanisms

The FAS Russia assisted in elaboration of the following draft federal laws on regulation of the foreign capitals’ participation in economy of the Russian Federation: “On the Russian Federation Procedure for the Foreign Investments in Commercial Organizations Having Strategic Significance for National Security”, “On Introduction of Alterations in the Law of the Russian Federation “On Mineral Resources”, “On Introduction of Alterations in Some Legal Acts in Connection with Adoption of the Federal Law “On the Russian Federation Procedure for the Foreign Investments in Commercial Organizations Having Strategic Significance for National Security”;

in the sphere of management of land fund of the Russian Federation and system of land and mortgage crediting

The FAS Russia assisted in elaboration of the federal law of 18.12.2006 № 232-FZ “On Introduction of Alterations in the Town-Planning Code of the Russian Federation and in Several Legal Acts of the Russian Federation”. Provisions aimed at development of competition and formation of mechanism for stimulation of rapid use of ground areas allocated for house-building were introduced in the law on the FAS Russia initiative.

Provisions introduced in the Town-Planning and the Land Codes of the Russian Federation as well as in a number of other federal laws provided for the following:

- only auction form of granting rights for reconstruction of built-up territory, as well as rules of procedure for holding such auction;

- possibility of granting a ground area for house-building without auction in the case if state or municipal contract on house-building with the use of budget funds of all levels was concluded;

- immediate termination of the right for leasing of the ground area allocated for house-building in the case if the economic entity did not get building permits within the established period;

- inclusion in the contract of leasing of the ground area for house-building of essential condition on obligatory observance of the normative period of construction of housing facilities’ objects;

- increase of the rent volume for the ground area if the completion date of a project and state commissioning of house-building objects was violated.

The FAS Russia carries out control over compliance with the procedure of granting land areas for house-building out of the lands which are in state or municipal property, within the frames of priority national project “Available and comfortable accommodations – to the citizens of Russia”.

in the sphere of available accommodations market grouping

The FAS Russia assisted in elaboration of the Decision of the Government of the Russian Federation of 06.02.2006 №75 “On Approval of the Rules of Conducting Open Tender on Selection of Managing Company for an Apartment House Maintenance Held by the Bodies of Local Self-Government”. The decision excluded preliminary qualification selection and established short closed list of conditions for access to the tender of managing organizations; objective qualitative criteria for defining of the winner of a tender were clearly formulated. The established procedure for Conducting Open Tender on Selection of Managing Company for an Apartment House Maintenance would allow ensuring of equal access to the market of apartment houses’ managing services to all interested economic entities and thus would lead to development of competition and demonopolization in the sphere of Communal Housing.

The FAS Russia together with the interested agencies elaborated draft Decision of the Government of the Russian Federation “On Complex of Measures on Carrying out Reorganization in the Sphere of Communal Housing in the Russian Federation in 2006-2009” which provided, in particular, for the following measures aimed at creation of competition in the sphere of communal housing:

elaboration of mechanism of conducting public tenders preceding the transfer of the objects of communal infrastructure which is in state or municipal ownership or on other grounds to lease (management) in the result of which private operators get the right of ownership and use of the communal housing objects and also advancement of elaboration and adoption of the draft federal law “On Circulation of Communal Housing Objects”;

introduction of alterations in the federal law of 17.08.95 №145-FZ (in version of 29.12.2006) “On Natural Monopolies” in the part concerning introduction of obligations of the subjects of natural monopolies not to exceed particular sum of money while purchasing goods, works and services which price is a constituent of the regulated tariff and to act in accordance with the procedures established by the federal law of 21.07.2005 № 94-FZ “On Placement of Orders for Goods, Works and Services for State and Municipal Needs”;

in the sphere of regulation of electricity and gas tariffs

The FAS Russia assisted in elaboration of the following draft Decisions of the Government of the Russian Federation:

“On the Basis of Pricing and Rules of Regulation of Tariffs on Products and Services of Organizations of Communal Complex, Tariffs on Connection to the Systems of Communal Infrastructure, Tariffs of Organizations of Communal Complex on Connection, as well as Extra Charges to the Tariffs on Products and Services of Organizations of Communal Complex and Extra Charges to Consumers Prices (Tariffs), Including Establishment of Maximum Indices and the Order of Calculation of Indices of Factual Change of Tariffs for Products and Services of Organizations of Communal Complex, Taking into Account Extra Charges to Tariffs for Products and Services of Organizations of Communal Complex”;

“On Introduction of Alterations in the Decision of the Government of the Russian Federation of 22.08.2005 № 533 “On Approval of Regulation on Interaction of the Bodies of State Authority of the Subjects of the Russian Federation Implementing Regulation of Tariffs of Organizations of Communal Complex with the Bodies of Local Self-Government Implementing Regulation of Tariffs and Extra Charges of Organizations of Communal Complex”;

“On Obligatory Rules of Conclusion and Implementation of Public Contracts on Connection to the Systems of Communal Infrastructure”;

“On Procedure of Defining Terms of Organizations of Communal Complex Activity, Change of Which Influences on the Price of Products and Services of These Organizations”;

“On the Order of Financing of Investment Programmes of Organizations of Communal Complex – Producers of Products and Services in the Sphere of Electricity or Heat Supply”;

“On Introduction of Alterations in the Decision of the Government of the Russian Federation of 07.03.95 № 239 “On Measures on Improvement of State Regulation of Prices (Tariffs) in

the Part Concerning Regulation of Prices (Tariffs) for Natural Gas, Domestic Bottled Gas, Electricity Supply, Heating (Including Heat Supply)”;

“On the Federal Bodies of Executive Authority Adopting Unified Reporting System for Organizations of Communal Complex and Periodicity of Its Submission, Method of Monitoring of Fulfillment of Production Programmes and Investment Programmes of Organizations of Communal Complex and other Methodical Guidance and Recommendations, as well as Organization of Methodical Support on Preparation of Terms of References on Elaboration of Investment Programmes of Organizations of Communal Complex for the Bodies of Local Self-Government”;

“On the Procedure of Examination of Disagreements Concerning the Established Tariffs and Extra Charges Between the Bodies of Executive Authority of the Subjects of the Russian Federation Which Carry out Regulation of Tariffs on Products and Services of Organizations of Communal Complex and Organizations of Communal Complex”;

“On the Procedure of Implementation of State Control in the Sphere of Regulation of Tariffs and Extra Charges of Organizations of Communal Complex”;

in the sphere of railway transport

The FAS Russia assisted in elaboration of the Decision of the Government of the Russian Federation of 15.03.2006 № 134 “On Licensing of Some Types of Activity on the Railway Transport”, which simplified procedure of licensing and in which licensing of infrastructure services was excluded from the list of activities subjected to licensing and thus possibilities for development of competition on the railway transport were extended.

Plan of measures on implementation of the Programme of structural reform on the railway transport elaborated with the FAS Russia assistance was adopted by the Order of The Government of the Russian Federation of 10.08.2006 № 1094-r.

The FAS Russia elaborated draft Decision of the Government of the Russian Federation on the basis of legal regulation of activity of operators of railway rolling stock and their interrelations with carriers in order to extend legal area ensuring development of competition and defining legal relations in the sphere of railway transport.

in the sphere of civil aviation

The FAS Russia assisted in elaboration of the Decision of the Government of the Russian Federation of 23.06.2007 №397 “On Licensing of Transportation of Passengers by Air Transport and Transportation of Freights by Air Transport as well as Perfection of State Regulation of Activity of Carriers in the Sphere of Air Transport” in which it was taken into account the position of the FAS Russia on illegality of licensing of particular air routs which could restrict the sphere of air companies transportation and contradicted with Article 7 of the federal law of 08.08.2001 № 128-FZ “On Licensing of Some Types of Activity” according to which the type of activity was subjected to licensing and the license was valid on the whole territory of the Russian Federation and also contradicted with provision of Part 1 of Article 15 of the law “On Protection of Competition” which prohibited unjustified impeding of activity of economic entities;

in the sphere of sea transport

The FAS Russia secured introduction of amendment in the draft federal law “On Sea Ports” which allowed fish and specialized ports fulfilling transshipment of other freights too;

in the sphere of river transport

On the basis of analysis of the market of handling operations in the river ports the FAS Russia came out in favour of termination of the state regulation of economic entities carrying out handling operations on the internal water transport (except activity of water ports situated in the regions of the Far North and regions equated with them as they can be the only points carrying

out transshipment of the freights of northern delivery by river transport at the expenses of the relevant budgets);

in the sphere of automobile transport

On the FAS Russia proposal the Government of the Russian Federation prepared amendment to the draft federal law “On Main Principles of Organization of Transport Services for Citizens on the Routs of Regular Communications in the Russian Federation” which established one carrier maximum share of 35% of the volume of transportation services in this commodity market;

in the sphere of banking and financial systems

The FAS Russia assisted in elaboration of the draft federal law “On Development Bank” aimed at encouragement of development of industry and innovation sectors of economy. The project provided for ensuring of qualitatively new level of the state participation in the capitals of credit organizations which enabled to liquidate the existing deficit of financial institutions promoting formation of long-term projects with long pay-off period aimed at creation of modern competitive technological basis for the Russian economy. Taking into consideration international experience of development of similar financial institutions as well as the fact that the aim of their creation was not in gaining profit but in ensuring increase of attractiveness of particular sectors for private capital, the FAS Russia proposed to establish in the draft law the following principles of functioning of Development Bank:

Development Bank is prohibited from settlement of any transactions in the financing services market which are outside the limits of its functions established in the law or any other normative and legal acts of the Government of the Russian Federation;

Development Bank is prohibited from competing with other financial organizations as Development Bank should provide services on the terms which cannot be offered by other organizations and should not provide services if it possible to get this service on reasonable terms from other organization;

in the sphere of agriculture

The FAS Russia together with the ministry of Agriculture of Russia assisted in elaboration of the draft federal law of 29.12.2006 №264-FZ “On Development of Agriculture” and State programme “Development of agriculture and regulation of the markets of agricultural products, raw materials and foodstuffs for 2008-2012” which provided for development of rural territories, increase of the level of employment and standards of living of the rural population and competitive recovery of the Russian agricultural products on the basis of financial stability and modernization of agriculture as well as on the basis of rapid development of priority agricultural segments; conservation and reproduction of agricultural lands and other natural resources used in agricultural production.

Other relevant measures including new methodological recommendations

Decision of the Government of the Russian Federation of 05.12.2006 №1681-r approved plan of measures on implementation of the law “On Protection of Competition” that should be fulfilled in 2007, including elaboration by the FAS Russia together with the interested federal bodies of executive authority of decisions of the Government of the Russian Federation concerning:

establishment of assets volume of financial organizations, including credit organizations, and aggregate share of financial organizations in the commodity market with the aim of implementation of the antimonopoly control (Decision of the Government of the Russian Federation of 30.05.2007 №334 “On Establishment of Assets Volume of Financial Organizations (Except Credit Organizations) and Aggregate Share of Financial Organizations (Except Credit Organiza-

tions) in the Commodity Market with the Aim of Implementation of the Antimonopoly Control” and Decision of 30.05.2007 №335 “On Establishment of Assets Volume of Credit organizations and Aggregate Share of Credit Organizations in the Commodity Market with the Aim of Implementation of the Antimonopoly Control” were adopted);

defining of conditions for recognizing position of a financial organization as dominant (except credit organization) and procedure of establishment of dominant position of a financial organization (except credit organization) (Decision of the Government of the Russian Federation of 09.06.2007 №359 “On Approval of Conditions for Recognizing Position of a Financial Organization as Dominant (Except Credit Organization) and Rules of Establishment of Dominant Position of a Financial Organization (Except Credit Organization)” was adopted);

defining of conditions for recognizing position of a credit organization as dominant and procedure of establishment of dominant position of a credit organization (Decision of the Government of the Russian Federation of 26.06.2007 №409 “On Approval of Conditions for Recognizing Position of a Credit Organization as Dominant and Rules of Establishment of Dominant Position of a Credit Organization” was adopted);

elaboration of the Rules of access to the products of the subjects of natural monopolies aimed at prevention of creation of conditions under which one consumer would appear to be in unequal situation in comparison with the other consumers of the products of the subjects of natural monopolies;

establishment of the procedure of forming and keeping of the Register of economic entities whose share in the relevant commodity market exceeds 35% (package of documents was submitted to the Government of the Russian Federation on 31.08.2007);

establishment of the procedure for control over activity of legal persons ensuring organization of trade in the markets of certain commodities in the circumstances when the state regulation of prices (tariffs) for these commodities was terminated;

introduction of alterations in Decisions of the Government of the Russian Federation connected with adoption of the federal law “On Protection of Competition”;

elaboration of federal law on introduction of alterations in the legal acts of the Government of the Russian Federation connected with adoption of the federal law “On Protection of Competition”.

Introduction of alterations in a number of normative and legal acts was also provided for in the Order of the FAS Russia of 27.12.2006 №343.

Decision of the Government of the Russian Federation of 17.08.2006 №508 “Rules of Examination of Cases Initiated by the Antimonopoly Body on the Basis of Infringement of Legislation of the Russian Federation “On Advertising” which took into consideration provisions of the law “On Advertising” that came into force, was adopted.

Starting from April 1, 2006 (in accordance with the federal law of 28.12.2004 № 178-FZ “On Introduction of Alterations in Article 6 of the Federal Law “On Peculiarities of Functioning of Power Industry in the Transition Period and on Introduction of Alterations in Some Legal Acts of the Russian Federation and Recognition Invalid of Some Legal Acts of the Russian Federation in Connection with Adoption of the Federal Law “On Power Industry”) it is prohibited for legal persons and individual entrepreneurs to combine activity on generation with purchase and sale of electrical energy. The FAS Russia is carrying out constant monitoring of the process of unbundling in the power industry.

During the reporting period the FAS Russia prepared the following orders:

of 17.01.2006 №9 “On Approval of the Rules of Examination by the Antimonopoly Body of Cases of Infringement of the Antimonopoly Legislation and Other Normative Legal Acts on Protection of Competition in the Financial Services Market” (registered by the Ministry of Justice of Russia on 28.04.2006 №7774);

of 16.03.2006 №54 “On Approval of the Rules of Examination by the Federal Antimonopoly Service and Its Territorial Bodies of Applications and Notifications Submitted in Accordance With the Requirements of Article 7 of the Federal Law “On Natural Monopolies”” (registered by the Ministry of Justice of Russia on 01.06.2006 №7902);

of 25.04.2006 № 108 “On Approval of New Procedure of Conducting Analysis and Assessment of Conditions of Competition Environment in the Commodity Market” (registered by the Ministry of Justice of Russia on 27.07.2006 № 8121);

of 20.11.2006 №293 “On Approval of the Form for Submitting a List of Persons Included into One Group” (registered by the Ministry of Justice of Russia on 04.12.2006 №8552);

of 10.07.2006 №183 “On Approval of Regulation on Advisory Council on Communications under the Federal Antimonopoly Service”;

of 30.11.2006 №301 “On Advisory Council on Development of Competition in the Sphere of Education and Science under the Federal Antimonopoly Service”.

The FAS Russia carried out work on analysis of condition of competition in commodity and financial markets aimed at development of competition policy considering specific character of different spheres of activity. Commission on conducting analysis of commodity and financial markets under the Federal Antimonopoly Service was established by the Order of 03.10.2006 №249. The Commission included officials from the Central Headquarters and representatives of the territorial antimonopoly bodies. Objectives of the Commission are the following:

planning of the work on analysis of commodity and financial markets;

examination and approval of drafts of methodic guidance on analysis of commodity and financial markets elaborated by sectoral structural units of the Central Headquarters of the FAS;

examination of materials of carried out analysis of commodity and financial markets.

11 meetings of the Commission were held.

Plan of the FAS Russia activity on analysis of condition of competition in the commodity markets till 2008 was approved by the Order of 09.11.2006 №285. 22 priority markets were defined for conducting analysis. Materials of the markets’ analysis would be used in preparation of the Report on condition of competition in the Russian Federation which the FAS is obliged to submit to the Government of the Russian Federation annually in accordance with the law “On Protection of Competition”.

At the suggestion of the FAS Russia the Government of the Russian Federation included in its Plan of legislative activity for 2006 draft of the federal law “On Introduction of Alterations in Article 178 of the Criminal Code of the Russian Federation” providing for increase of criminal responsibility for infringement of the antimonopoly legislation. The FAS Russia submitted draft of the mentioned law to the Government of the Russian Federation in accordance with the established procedure.

II. Application of Competition Laws and Implementation of Competition Policy

In 2006 the FAS Russia carried out 44 047 control and supervision actions in all spheres of activity in order to prevent and suppress anticompetitive practices. 8127 infringements of the antimonopoly legislation were discovered and 7438 proceedings were initiated.

1. Actions aimed against monopolistic activity

a) Description of activity of the competition authorities and courts

In 2006 the FAS Russia carried out 5728 control and supervision actions aimed at prevention and suppression of monopolistic activity in commodity and financial markets (abuse of dominant position and anticompetitive agreements between economic entities). 1518 infringements on the basis of monopolistic activity were discovered and 1291 proceedings were initiated.

b) Suppression of abuse of dominant position

3863 applications connected with abuse of dominant position in the commodity markets by economic entities were submitted to the antimonopoly bodies in 2006. The most spread type of abuse was still imposition of disadvantageous terms of agreements (about one third of all applications). 1168 proceedings were initiated and 140 out of them were instituted on the antimonopoly bodies' initiative. In 518 cases the proceedings were terminated as the infringement was eliminated in the course of examination (62%) or the fact of the infringement was not confirmed (38%). 650 decisions admitting the infringement were taken on the remaining cases and 619 directions were issued. 198 decisions (30%) were appealed in court. 22 decisions were admitted wholly invalid and 3 decisions were admitted partially invalid by court.

32 applications on abuse of dominant position by financial organizations (mainly in the banking services market) were submitted to the antimonopoly bodies in 2006. 5 proceedings were initiated. In 1 case the proceedings were terminated as the infringement had been eliminated before the decision was taken. 4 decisions admitting the infringement were adopted and 2 directions were issued. The directions were fulfilled.

c) Description of typical cases

Market of heat energy that is supplied to the citizens. The FAS Russia examined application of GUP "Zhilcomservice" connected with the fact that public corporation "Mosenergo" established for GUP "Zhilcomservice" tariffs for heat energy that was actually supplied to the citizens living in departmental houses at the level of tariffs for organization (which were considerably higher in comparison with the tariffs for citizens) and initiated a case № 1 05/201-04 against public corporation "Mosenergo" on the basis of abuse of dominant position, infringement of interests of GUP "Zhilcomservice" and violation of the established procedure of pricing and unjustified demand of transfer of financial assets at settlement of accounts for heat energy with GUP "Zhilcomservice".

Direction on termination of violation of the antimonopoly legislation, including non-admission of actions creating threat of violation of the antimonopoly legislation in the part concerning violation of the procedure of pricing established by normative acts, was issued to public corporation "Mosenergo" on the basis of the results of examination. "Mosenergo" was prescribed to apply tariff established for the category "citizens" at settlement of accounts for heat energy with housing (managing) organizations which manage the housing fund and whose final consumers were citizens.

Decision and direction of the FAS Russia on this case were appealed by public corporation "Mosenergo" in courts of three instances. Decision and direction of the FAS Russia, however, were admitted legal and justified by decision of Moscow Court of Arbitration of 28.04.2005, decision of the 9th Appellate Court of Arbitration of 13.07.2005 and decision of the Federal Court of Arbitration of Moscow region of 26.10.2005.

But the FAS Russia received application from another organization namely "SEU "Fundamentstroj-6" Ltd. with complaint that "Mosenergo" had established for it tariffs for heat energy that was actually supplied to the citizens living in private houses at the level of tariffs for organization.

On the basis of the application a case of abuse of dominant position, infringement of the interests of "SEU "Fundamentstroj-6" and violation of the established procedure of pricing was initiated against "Mosenergo". During examination of the case the fact of violation of the antimonopoly legislation by "Mosenergo" was confirmed. Besides, it was established that "Mosenergo" had not fulfilled the direction of the FAS Russia on the case № 1 05/201-04 on application of the tariff established for the category "citizens" at settlement of accounts for heat energy with housing (managing) organizations which manage the housing fund and whose final consumers

were citizens, which had come into force and thus violated requirements of the antimonopoly legislation in the part concerning obligatoriness of execution of decisions and directions of the antimonopoly body.

Fine at the rate of 3500 minimal wages, i.e. 350 000 rubles, was imposed on “Mosenergo” by resolution of the FAS Russia. The mentioned fine was paid.

Beside, “Mosenergo” was directed to transfer the profit gained as the result of infringement of the antimonopoly legislation for 2 years, i.e. 2691894,79 rubles, to the federal budget. The direction was fulfilled.

Oil products. Belgorodskoye Department of the FAS of Russia initiated a case of abuse of dominant position by creating discriminatory conditions against “Torgoviyi Dom “UKOS-M” Ltd.

Analysis of contracts on oil products purchase and sale showed that procedure of financial arrangements provided in the contracts concluded by “Torgoviyi Dom “UKOS-M” with public company “Belgorodnefteproduct”, that were included in one vertically integrated group of undertakings, differed from financial arrangements of other purchasers which were not included in the group. Contracts with “Belgorodnefteproduct” established more favourable conditions of payment for the products (100% payment for the products exercised not later than 15 calendar days since the date of shipment of each lot) in comparison with other consumers which were obliged to do 100% prepayment within three calendar days since the date of submission of the bill by the seller.

Commission examining the case took decision admitting infringement of the antimonopoly legislation by “Torgoviyi Dom “UKOS-M” and issued direction on termination of the infringement. The direction was fulfilled.

Communication services. Public company “Dalsvyas” created discriminatory conditions of access to the communication services market for close company “Primtelefon” by collecting unjustified payments for capacity rising of intraareal and interstation network that considerably increased the cost of connection of “Primtelefon” to the network of general use. At the same time the company did not collect these payments from the other connected operators. .

It was admitted that the mentioned actions of “Dalsvyas” infringed the antimonopoly legislation in the part concerning establishment and support of monopolistically high prices and creation of such conditions of access to the commodity market that place one or several economic entities in unequal position in comparison with another or other economic entities.

“Dalsvyas” was issued a direction to terminate infringement of the antimonopoly legislation and also a direction to transfer to the federal budget the profit gained in the result of infringement of the antimonopoly legislation at the rate of 205 767 523 rubles.

Validity of the decision and directions of the FAS Russia were confirmed by the Court of Arbitration.

Potassium chloride market. The FAS Russia initiated a case of abuse of dominant position in the part concerning establishment of monopolistically high price against public companies “Silvinit” and “Uralcaliyi”.

The reason for initiation of the case was the application of a group of undertakings including public companies “Akron” and “Dorogobuzh” that was submitted to the FAS Russia. The application informed that in 2007 “Silvinit” established for the mentioned applicants the price for potassium chloride that was 1,5 times higher than it had been before. Prices established by “Uralcaliyi” – alternative seller of potassium chloride – were also overcharged.

The FAS Russia carried out analysis of competition environment in the potassium chloride market in order to establish the fact of infringement of the antimonopoly legislation by “Silvinit” and “Uralcaliyi”. The results of the analysis showed that the aggregate share of the two mentioned economic entities in the examined market exceeded 50%; position of “Silvinit” and

“Uralcaliyi” in the potassium chloride market of the Russian Federation was admitted dominant (collective dominance).

The FAS Russia carried out analysis of factors influencing on potassium chloride pricing in order to expose indications of establishment of monopolistically high prices for potassium chloride produced by “Silvinit” and “Uralcaliyi”. On the basis of analysis the FAS Russia determined that potassium chloride prices for the internal market established by “Silvinit” (average price is 2950 rubles per ton) and “Uralcaliyi” (average price is 3475 rubles per ton) in 2007 considerably exceeded the amount of expenditures and profits necessary for production and sale of such product.

Commission of the FAS Russia came to the conclusion that potassium chloride price for the internal market in 2007 that would not exceed the amount of expenditures and profits necessary for production and sale of such product should not exceed 2100 rubles per ton for the potassium chloride produced by “Silvinit” and 2950 rubles per ton for the potassium chloride produced by “Uralcaliyi”.

In its decision Commission of the FAS Russia admitted that “Silvinit” and “Uralcaliyi” had infringed the antimonopoly legislation. Directions on termination of abuse of dominant position by “Silvinit” and “Uralcaliyi” and on transfer to the federal budget of the profit gained in the result of infringement of the antimonopoly legislation were issued in the frames of the decision (“Silvinit” at the rate of 127 013 800 rubles and “Uralcaliyi” at the rate of 62 165 483,44 rubles).

Ethylene transportation services. The reason for initiation of proceeding was the application on establishment of unjustified high tariffs for the services of ethylene transportation through main ethylene pipeline “Salavat-Sterlitamak-Ufa-Nizhnekamsk-Kazan” submitted to the FAS Russia by close company “Kaustik”.

The FAS Russia carried out analysis of competition environment in order to establish infringement of the antimonopoly legislation by public company “Nizhnekamskneftehim”. The analysis established the fact of “Nizhnekamskneftehim” dominant position in the market. The main consumers of the service were undertakings using ethylene in production process and connected to the main ethylene pipeline “Salavat-Sterlitamak-Ufa-Nizhnekamsk-Kazan”. These undertakings were “Kaustik” and public company “Kazanorgsintez”.

Besides, procedure of the tariff forming for ethylene transportation through the main ethylene pipeline by “Nizhnekamskneftehim” was examined and it was established that two approaches were applied for establishment of the tariff. Under the first approach the tariff was defined in accordance with method of establishment of tariffs for ethylene transportation through the main ethylene pipeline for external consumers adopted by “Nizhnekamskneftehim”. The method took into consideration all factors influencing on prime cost of ethylene transfer as well as provided adequate profit for development of the undertaking. Under the second approach the tariff for ethylene transfer was agreed by contract and established by “Nizhnekamskneftehim” according to its interests without proper justification.

In 2004-2005 the agreed tariff was applied towards “Kaustik”. And as it was evident from the correspondence between the two economic entities, when “Kaustik” did not agree with the established tariff the company “Nizhnekamskneftehim” forced it to accept the tariff under the threat to stop ethylene supply. In 2005 “Nizhnekamskneftehim” increased tariff for “Kaustik” twice. Regarding “Kazanorgsintez”, within the same period “Nizhnekamskneftehim” applied the tariff which was established once a year and calculated according to the adopted method.

The FAS Russia calculated the tariff for “Kaustik” in accordance with the approved method and established that the agreed tariff for ethylene transfer established by “Nizhnekamskneftehim” for “Kaustik” in 2004-2005 was considerably higher than the calculated tariff. In 2004 the tariff should have been 712 rubles per ton and in 2005 – 830 rubles per ton. Actually the voluntary established tariffs for “Kaustik” were the following: 1080 rubles per ton in 2004, 1274 rubles starting from 01.01.2005 and 1306 rubles from 01.07.2005. Besides, “Nizhnekamskneftehim” tied the change of tariff on ethylene transfer for “Kaustik” with the change of price

for hydrate of sodium which OAO “Nizhnekamskneftehim” purchased from public company “Edinaya trgovaya kompania”. But hydrate of sodium was not used for ethylene transfer in any way.

Commission of the FAS Russia which examined the case qualified:

application by “Nizhnekamskneftehim” of different selective principles for establishment of tariffs for the services of ethylene transportation through main ethylene pipeline “Salavat-Sterlitamak-Ufa-Nizhnekamsk-Kazan” in 2004-2005 as creation of conditions which place one or several economic entities in unequal conditions in comparison with another economic entity or other economic entities (discriminatory conditions);

actions of “Nizhnekamskneftehim” concerning the change of the agreed tariff on ethylene transportation through main ethylene pipeline for “Kaustik” in 2005 in accordance with the change of the price for hydrate of sodium which was purchased from “Edinaya trgovaya kompania” as imposition of irrelevant terms on the contractor.

Commission of the FAS Russia took the relevant decision and issued to “Nizhnekamskneftehim” direction on termination of infringement of the antimonopoly legislation and on transfer of the profit gained in the result of infringement of the antimonopoly legislation at the rate of 70958476,84 rubles to the federal budget.

Courts of all instances confirmed validity of the decision and directions issued by Commission of the FAS Russia.

Insurance services market. Sverdlovskoye department of the FAS Russia initiated a case of implementation of concerted practices and conclusion of agreement restricting competition in the insurance services market against Territorial Fund of obligatory medical insurance (TFOMI) of Sverdlovskii region, OOO SK “Belaya Bashnya-Zdorovie”, OOO ESK “Puls”, OOO MSK “Astramed-MS”, OOO “Megus-AMT”, ZAO “SK “Medinkom”, ZAO “MSK “Tirus-Medservice”, OOO SMK “Fond Zdorovia”, OOO SMK “Ural-Retsept M”, OOO MSK “Danko”, OOO SMO “Tagil-Medservice”, OOO “SK Krona-SK”, OOO “Uralskaya strakhobaya medicina”, OOO ZhMSK “Dormedservice”, ZAO SK “SAKS-MED”, OOO MSK “Ostrov”, ZAO MSK “Garant-Energomed” and OOO SMK “Koltso Urala-medicina” which had worked in the system of obligatory medical insurance before 01.01.2006. The enumerated insurance organizations adopted different types of contracts on financing of medical insurance organizations depending of the period of operating in the system of obligatory medical insurance (before 01.01.2006 and later) and thus created discriminatory conditions for medical insurance organizations which started to operate in the system of obligatory medical insurance after 01.01.2006.

Commission of Sverdlovskoye department of the FAS of Russia issued direction on termination of infringement of the antimonopoly legislation which was executed by brining the forms of contracts in accord with typical forms.

d) Suppression of anticompetitive agreements between economic entities

In 2006 the antimonopoly bodies received 98 applications on agreements restricting competition in the commodity markets concluded between economic entities (concerted practices). Most of the applications (28%) were connected with establishment (support) of prices (tariffs), discounts, extra charges (additional payments) and restriction of access into the market (19%). 66 proceedings were initiated. The proceedings of 44 cases were terminated as the infringements were removed in the course of examination (66%) and the fact of the infringement had not been confirmed (34%). As for the remained cases, there were issued 22 decisions on admission of the infringement and 22 directions. 12 decisions were appealed in court and 1 of them was admitted invalid.

269 applications on agreements restricting competition in the financial services market concluded between financial organizations (concerted practices) were submitted. 58 proceedings

were initiated and 45 out of this number were initiated by antimonopoly bodies. In 18 cases the proceedings were terminated as the infringements were removed in the course of examination (56%) and the fact of the infringement had not been confirmed (44%). As for the remained cases, there were issued 40 decisions on admission of the infringement and 35 directions. 8 decisions were appealed in court and none of them was upheld by the court.

e) Description of typical cases

Communications services. Commission of the FAS Russia examined the case concerning the federal operators of mobile radiotelephone communications “VimpelCom”, “MTS” and “Megafon”. On the basis of the results of examination the mentioned companies were found guilty of infringement of the antimonopoly legislation in the part concerning implementation of concerted practices that could lead to restriction of competition and infringement of interests of other mobile operators by establishment of tariffs for settlement of accounts with other (regional) operators at the rate exceeding the analogous tariffs applied by the companies to each other.

Share of the tariff for area calls services in the final customers’ price constitutes from 65% to 100%. In order to keep profitability of the provided services the regional operators would be forced to increase their subscriber’s tariff for the outgoing calls to subscribers of OAO “MTS”, OAO “VimpelCom” and OAO “Megafon” at 1.25 rubles per minute in average, which in its turn will prevent the regional operators from competing with the federal operators in prices and thus will lead to decrease of their competitiveness.

OAO “MTS”, OAO “VimpelCom” and OAO “Megafon” were obliged to present calculations of the applied tariffs for area calls services of a company (companies of the relevant groups of persons) together with attachment of financial and economic basis (companies’ documents which served as the basis for adoption of the relevant decisions) for the period preceding the establishment of new tariffs and afterwards. The information was not presented. At the meeting of the FAS Russia Commission the parties stated that they had provided all available information on the matter. It all proved that none of the federal operators proceeded from economically sound indicators while defining the price of the area calls services.

In the Commission’s of the FAS Russia opinion, the fact that within close dates (9 working days) OAO “MTS”, OAO “VimpelCom” and OAO “Megafon” sent proposals on renegotiation of the contracts on connection which contained absolutely identical charge rate for the area calls services was testifying of implementation by the federal operators of actions agreed in their essence, composition and time frames.

At the same time Commission of the FAS Russia terminated the proceedings against OAO “VimpelCom” and OAO “MTS” as they voluntary removed the infringement having changed the tariff. Direction on termination of infringement of the antimonopoly legislation was issued to OAO “Megafon”. OAO “Megafon” was prescribed to transfer the unlawfully gained profit to the federal budget in the case if it had collected payments on the conditions which were recognized as contradicting with the antimonopoly legislation. The Direction was appealed in Court of Arbitration and two instances of the court confirmed validity of the antimonopoly body’s decision.

Automobile fuel. Lipetskoye department of the FAS Russia initiated proceedings against ZAO “Lipetsknefteproduct”, OOO “Lukoil-Centernefteproduct” and OOO “Predpiyatiye “Upravlyayuschaya kompania” in connection with concerted actions on increase and further support of prices which restricted competition in the retail automobile fuel market.

Results of the weekly prices monitoring showed that the mentioned independent oil companies carried out parallel price policy by simultaneous increase of retail gasoline prices.

Mainly three oil companies, i.e. NK “Ukos”, NK “TNK” and NK “Lukoil”, sold gasoline in the region. Retail sale of oil products was implemented by the largest economic entities: ZAO “Lipetsknefteproduct”, OOO “Lukoil-Centernefteproduct” and OOO “Predpiyatiye “Upravlyay-

uschaya compania” as well as small economic entities. Retail gasoline sale was carried out by 100 filling stations (AZS). Most of AZS (49) belonged to ZAO “Lipetsknefteproduct”.

ZAO “Lipetsknefteproduct”, OOO”Lokoil-Centernefteproduct” and OOO “Predpiyatiye “Upravlyayuschaya compania” operated at one and the same regional markets. ZAO “Lipetsknefteproduct” occupied dominant position in these markets and its share exceeded 50%. This company had decisive influence on the general conditions of gasoline circulation in the regional market.

Analysis carried out by Lipetskoye department of the FAS Russia showed that all mentioned companies purchase gasoline from different suppliers. At the mentioned period suppliers prices were different. Purchase price and cost of sale had changed slightly until the moment of simultaneous and synchronized increase of retail prices which meant that there had been no reasons for simultaneous and synchronized increase of retail prices.

Probability of existence of concerted practices was defined by the following:

Accessibility of information about prices for competitors. All AZS distributed information about prices for all types of available fuel to an indefinite group of persons;

Existence of a price leader in the gasoline markets within the period under the view. ZAO “Lipetsknefteproduct” occupying dominant position and exercising decisive influence on the general conditions of circulation of the product was the first to raise price from September 5, 2006. After “the leader” the prices were raised by the other participants of the market: OOO”Lokoil-Centernefteproduct” raised prices from September 6 and OOO “Predpiyatiye “Upravlyayuschaya compania” from September 7, 2006;

Existence of stable demand on gasoline of particular brands which is conditioned by design peculiarities of various marks of cars and financial abilities of the owners. Gasoline of different brands cannot be fungible.

Commission of Lipetskoye department of the FAS Russia admitted infringement of the antimonopoly legislation from the part of ZAO “Lipetsknefteproduct”, OOO”Lokoil-Centernefteproduct” and OOO “Predpiyatiye “Upravlyayuschaya compania”. The case was terminated as in the course of examination the mentioned economic entities removed the infringements by price decrease for the indicated gasoline brands and thus competition environment was restored.

Land-surveying services. Volgogradskoye department of the FAS Russia initiated proceeding on establishment and support of prices in the land-surveying services market on the territory of Gorodovikovski and Yashaltinski regions of Kalmikia Republic against municipal organization “Cadastral bureau” of Gorodovikovski region, OOO “Meridian”, PBOUL Veger V.P. and PBOUL Kuznetsov S.V.

Analysis showed that the land-surveying services in the mentioned regions were provided by the mentioned agents of the market which concluded agreement on 01.01.2005 on establishment of uniform fixed price for the land-surveying service at the rate of 3500 rubles. Commission admitted the fact of infringement of the antimonopoly legislation and issued direction on termination of the infringement which was fulfilled.

Services of the sale of beer. Kurskoye department of the FAS Russia initiated a case against OAO “Pivovarennaya compania “Baltica” (Saint Petersburg) in connection with a contract restricting competition.

Beer producers OAO “Pivovarennaya compania “Baltica” and ZAO “Corporatsia “GRINN”, which owned a network of supermarkets situated in Kurskaya and Belgorodskaya regions, concluded a contract on paid service of distribution of OAO “Pivovarennaya compania “Baltica” product in retail shops of ZAO “Corporatsia “GRINN” in the volume not less than 45% of the total area of shelves for beer. The given condition was aimed at coordination of the conteragent’s activity with the purpose to promote products of OAO “Pivovarennaya compania “Baltica” including at the cost of restriction of volume of products of competitors displayed in the

shops (and in the result of the volume of retail sale). The provision of the contract led to creation of unequal, less profitable and discriminatory conditions of access to the market for the other beer producers and restricted competition between them and OAO "Pivovarennaya kompania "Baltica".

Commission of Kurskoye department of the FAS of Russia admitted that the relevant clause of the contract contradicted with the antimonopoly legislation and issued direction on its annulment. The direction was fulfilled.

Insurance services. In November of 2006 on application of OAO "Istraagroservice complex" (stockholder of ZAO "Bank Russkiy Standart") the FAS Russia examined a case of OOO "Russkiy Standart-Invest" and company "Kardif S.A." (shareholders of ZAO "Russkiy Standart Strakhovaniye") in connection with inclusion in Agreement of shareholders of ZAO "Russkiy Standart Strakhovaniye" of 30.05.2003 of some clauses implementation of which could lead to economically and technologically unjustified refusal to conclude contract with particular sellers or purchasers including insurance companies.

Commission of the FAS Russia established that there were exclusive relations between ZAO "Russkiy Standart Strakhovaniye" and ZAO "Bank Russkiy Standart" supported by implementation of a number of paragraphs of the Agreement. Consequence of such exclusiveness was a direct mention of ZAO "Russkiy Standart Strakhovaniye" in the Bank's Standard application. At the same time the Bank had economic and technological possibility to cooperate with other insurance companies and those latter were interested in this cooperation.

Considering the mentined facts and basing on the results of examination Commission of the FAS Russia established the fact of infringement of the antimonopoly legislation by shareholders of ZAO "Russkiy Standart Strakhovaniye" - OOO "Russkiy Standart-Invest" and company "Kardif S.A.". Decision was taken and direction on termination of the infringement including exclusion of some clauses from the Agreement was issued.

According to the decision adopted by the FAS Russia, ZAO "Bank Russkiy Standart" which was not defendant in the case should change the exclusive character of its relations with the insurance company. The direct mention of ZAO "Russkiy Standart Strakhovaniye" was excluded from the Standard application.

Decision of Moscow Court of Arbitration admitted the Agreement completely invalid in accordance with article 168 of the Civil Code of the Russian Federation. There was no need in further actions in order to cancel the Agreement.

2. State Control of Economic Concentration

a) Statistics data on quantity and types of transactions which were notified or/and controlled in accordance with legislation on competition

In 2006 the antimonopoly control of market concentration was focused upon control over transactions implemented by large companies. Transactions of companies which total book value of assets exceeded 30 million of sizes of established by the law minimal wage (3 billion rubles or 86 million Euros) were carried out by preliminary consent of the antimonopoly bodies; transactions of companies which total book assets exceeded 2 million of sizes of minimal wages (200 million rubles or 5'737'000 Euros) were subjected to notification. Increase of the threshold level of the book value of assets for introduction of the antimonopoly control was established by the federal law of 07.03.2005 №13-FZ and led to considerable decrease of the number of examined applications and notifications in 2005 and to further decrease of the number of examined transactions, that was not determined by reduction of investment activity, in 2006.

223 applications and 1922 notifications concerning creation, reorganization and liquidation of commercial and non-commercial organizations in the commodity markets were examined (8% decrease of applications and 28% decrease of notifications in comparison with 2005). 99%

of them were satisfied (taken into consideration). (Note: all applications were satisfied and 7 notifications were not taken into consideration). Directions on implementation of actions aimed at ensuring of competition were issued for 16 applications and 12 notifications.

5132 applications and 7485 notifications concerning acquisition of stocks (shares) in the authorized capital and other cases of redistribution of property rights were examined (18% decrease of applications and 10% increase of notifications in comparison with 2005). Positive decision was taken in 99% of the cases. (Note: 28 applications were denied and 33 notifications were not taken into consideration). Directions on implementation of actions aimed at ensuring of competition were issued for 171 applications and 22 notifications.

722 applications on transactions in the financial services markets were examined in 2006 (17% increase in comparison with 2005) and 718 of them were approved including 4 transactions for which recommendations aimed at ensuring of competition were given. 70% of applications were connected with the markets of banking and insurance services. 6284 notifications concerned transactions in the financial services market (almost 3 times increase in comparison with 2005). 6231 notifications out of the total number were taken into consideration including 120 notifications with recommendations. On the whole the financial services market was actively developing.

Specific character of state control in the sphere of natural monopolies. In 2006 the scope of state control of transactions in the sphere of natural monopolies from the part of the antimonopoly bodies remained insignificant. 72 applications and 109 notifications were examined. All of them were satisfied (taken into consideration). 81% of the territorial bodies of the FAS of Russia stated lack of applications and notifications submitted in accordance with the requirements of article 7 of the federal law “On Natural Monopolies”.

b) Description of typical cases

Acknowledgement of illegality of notification on creation. Bashkortostanskoye department of the FAS Russia examined notification of the Ministry of Property Relations of the Republic of Bashkortostan on approval of the terms of privatization of the state unitary undertaking “Teploset” and its reorganization into open-end company “Sibayskiye teploviye seti” (main type of activity was to supply customers with heat energy).

The newly created open-end company “Sibayskiye teploviye seti” did not own any objects of communal housing infrastructure networks and thus its name misled consumers of the communal services as to the character, method and place of production, consuming characteristics, quality and quantity of product and its producers and was qualified as unfair competition contradicting with the antimonopoly legislation.

On the basis of the mentioned facts Bashkortostanskoye department of the FAS Russia recommended to exclude from the name of the company notation “Sibayskiye teploviye seti”.

Notification on creation which was taken into consideration and was accompanied by direction. Kamchatskoye department of the FAS Russia took into consideration notification on creation of non-commercial organization “Association of fishing industry enterprises of Ozernovskiy region” and issued to the founders direction on implementation of actions aimed at ensuring of competition. The founders were recommended to exclude from constituent documents the following phrases: “Establishment in future of uniform price policy in sale of products in external and internal markets. Establishment of uniform policy for participation in tenders for assignment of fishing areas”. The direction was fulfilled.

Notification on agreement in the banking services market which was taken into consideration and was accompanied by antimonopoly requirements. Udmurtskoye department

of the FAS Russia examined notification of Udmurtskoye department of Sberbank of Russia on conclusion with the Ministry of Building, Architecture and Housing Policy of the Republic of Udmurtia of agreement on establishment of standard forms of contracts “On entering of the monetary funds (subsidies for payment for housing and for communal services) in deposit accounts”, “On entering of the monetary funds (subsidies for payment for housing and for communal services) in the banking cards accounts according to the electronic lists”. In the course of examination of the submitted information the indications of restriction of competition in the financial services market were not established in the actions of the credit organization and the agreement was admitted legal. In order to ensure competition in the financial services market Udmurtskoye department of the FAS of Russia issued the following recommendations to the participants of the agreement:

bodies of state authority of the Republic of Udmurtia, bodies of local self-government and departments of Sberbank of Russia located on the territory of the Republic of Udmurtia should not distribute among citizens the information about obligatory conclusion of contracts on transfer subsidies with Sberbank of Russia, as well as other information by means of which the conclusion of agreement between the Ministry of Building, Architecture and Housing Policy of the Republic of Udmurtia and Udmurtskiy department of Sberbank of Russia would be presented as advantage of this bank over other credit organizations;

lack of the Ministry of Building, Architecture and Housing Policy of the Republic of Udmurtia of the similar agreements with the other credit organizations should not be basis for refusal to transfer monetary funds (subsidies for payment for housing and for communal services) to the credit organizations where recipients of subsidy opened accounts.

The Ministry of Building, Architecture and Housing Policy of the Republic of Udmurtia was prescribed to inform authority bodies of the Republic of Udmurtia and bodies of local self-government directly connected with the question of transfer of subsidies about these recommendations; Udmurtskoye department of Sberbank of Russia was to inform all its departments on the territory of the Republic of Udmurtia. The recommendations were fulfilled.

Rejection of application on acquisition. In 2006 the FAS Russia rejected application of OAO “ROSNO-MS” on acquisition of 100% of stocks in the authorized capital of OOO MSK “Voronezh-Zdorovie” and application of OAO “ROSNO-MS” on acquisition of rights which allowed to determine conditions of implementation of business activity of OOO MSK “Voronezh-Zdorovie”.

In the obligatory medical insurance market (hereinafter OMI) of Voronezhskaya region the services were provided by 7 insurers including OOO “MSK “Almeda” which was in one group of persons with OAO “ROSNO-MS” and occupied dominant position in the given market with the share of 53%. OOO MSK “Voronezh-Zdorovie” had the market share of 8.63% before the settlement of transaction.

OOO MSK “Voronezh-Zdorovie” and OOO “MSK “Almeda” would constitute a group of persons with 61.63% of the market share in the result of settlement of the transaction. Analysis of condition of the competition environment showed that the level of market concentration would increase in the result of the transaction: HHI would increase from 3490 to 4404 and concentration coefficient CR3 would increase from 85% to 93.7% .

Thus the examined transaction would lead to strengthening of the dominant position of the group of persons (OOO MSK “Voronezh-Zdorovie” and OOO “MSK “Almeda”) and to restriction of competition in the OMI market of Voronezhskaya region.

Having taken into consideration all the mentioned facts the FAS of Russia rejected the given application.

Then the FAS Russia received and application on acquisition by OAO “ROSNO” of rights which allowed to determine conditions of implementation of business activity of OOO MSK “Voronezh-Zdorovie” by acquiring of 100% of stocks of ZAO “Superterminal”. At the same time

the transaction on acquisition of 100% of stocks of ZAO "Superterminal" had already been settled by the time of submission of the application.

Analysis of condition of competition environment in the OMI market of Voronezhskaya region showed that in the result of the transaction the level of concentration of capital in the given market increased.

Thus satisfaction of the mentioned application of OAO "ROSNO" would lead to strengthening of the dominant position of the group of persons (OOO MSK "Voronezh-Zdorovie" and OOO "MSK "Almeda") and to restriction of competition in the OMI market of Voronezhskaya region.

The FAS Russia rejected the given application of OAO "ROSNO".

In order to restore conditions of competition in the market the FAS Russia took decision and prescribed to OAO "ROSNO" to transfer within three months the rights which allowed to determine conditions of implementation of business activity of OOO MSK "Voronezh-Zdorovie" to the third persons which were not included into one group of persons with the participants of the transaction.

Since the decision of the FAS Russia was not fulfilled in time, an administrative investigation was carried out and it was established that the Rosstrakhnadzor had withdrawn the license from OOO MSK "Voronezh-Zdorovie" and the whole OMI insurance portfolio of the company had been transferred to the Fund of obligatory medical insurance. OOO MSK "Voronezh-Zdorovie" did not implement activity on insurance.

At present as the result of withdrawal of license from OOO MSK "Voronezh-Zdorovie" the ownership by OAO "ROSNO" of rights which allow to determine conditions of implementation of business activity of OOO MSK "Voronezh-Zdorovie" do not lead to strengthening of the dominant position of OAO "ROSNO" and to restriction of competition in the OMI market of Voronezhskaya region. A proceeding on the case of non-fulfillment of the decision of the FAS Russia by OAO "ROSNO" is terminated.

Rejection of application on acquisition. The FAS Russia examined application of OOO "UTair-Leasing" on acquisition of block of stocks at the amount of 100% of OAO "Airport Roschino" and established that settlement of that transaction could lead to restriction of competition in the air transportation market and to dominant position of the purchaser in the airport services market.

OOO "UTair-Leasing" was an affiliated person of the carrier OAO "Aviacompania "UTair" which owned 99.51% of the authorized capital of OOO "UTair-Leasing".

In the inquiry answer to the FAS Russia, the Ministry of transport did not support the mentioned transaction as it did not agree with the general policy of the Russian Federation in the sphere of aviation as well as with provisions of the Transport strategy of the Russian Federation till 2020.

Tumenskii department of the FAS Russia was entrusted with the task to carry out secondary analysis of condition of competition environment in the examined market and influence of the given transaction on condition of competition.

Having taken into account the results of analysis carried out by Tumenskiy department, the FAS Russia took decision to reject the application on settlement of the given transaction, because in the result of acquisition of 100% of stocks of OAO "Airport Roschino" airline "UTair", which was the largest carrier in the region, would get the possibility to drive out the existing competitors and this would lead to strengthening of the position occupied by OAO "Aviacompania "UTair" in the air transportation market and this in its turn would lead to restriction of competition in the given commodity market.

3. State Control over Acts, Actions, Agreements or Concerted Practices Restricting Competition of the Federal Bodies of Executive Authority, State Authority Bodies of the

Subjects of the Russian Federation, Bodies of the Local Self-Government, Other Bodies or Organizations Vested by the Functions or Rights of the Mentioned Authority Bodies and Central Bank of the Russian Federation

a) Description of activity of competition authorities and courts

2712 applications concerning anticompetitive activity of the authority bodies and structures equated to them in commodity and financial markets were examined in 2006. It constitutes more than one third of all applications submitted to the antimonopoly bodies. More than 10703 controlling and supervising measures were implemented. 2389 infringements were disclosed.

Like in the previous years the number of infringements of the antimonopoly legislation by authority bodies and Bank of Russia exceeded (by 26%) the number of disclosed facts of monopolistic activity and unfair competition from the part of economic entities and financial organizations and in the conditions of the Russian present-day reality it only confirmed actuality and necessity of the antimonopoly control over acts and actions, agreements and concerted practices connected with development of markets and competition in which the authority bodies and Bank of Russia participated.

2191 applications concerning actions of the federal bodies of executive authority, bodies of state authority of the Subjects of the Russian Federation, bodies of local self-government, other bodies and organizations vested by the functions and rights of the above mentioned authorities aimed at restriction of competition in the commodity markets were examined in 2006. 43% of the applications were connected with unjustified impeding of activity of economic entities, 30% of the applications were connected with granting of advantages and benefits and with other infringements creating discriminatory conditions of activity. 1423 proceedings were initiated. In 655 cases the proceedings were terminated as the infringements were eliminated in the course of examination (346) or the fact of infringement was not confirmed (309). 768 decisions admitting the infringement and 702 directions were issued on the rest of the cases. 13 decisions were admitted wholly invalid and 1 was admitted partially invalid by court.

2719 draft normative legal acts of the bodies of state authority and bodies of the local self-government were examined on their conformity with the antimonopoly legislation, including 581 drafts concerning advantages and benefits. More than 40% of the examined drafts on granting advantages and benefits did not agree with the antimonopoly legislation.

112721 existing normative acts were analyzed. 1472 acts contradicting with the antimonopoly legislation were found and the relevant measures were taken.

130 applications concerning anticompetitive agreements (concerted practices) in the commodity markets with participation of authority bodies were submitted in 2006. About half of the applications were connected with restriction of access to a market. 130 proceedings were initiated including 77 cases where the proceedings started on the antimonopoly bodies' initiative. In 49 cases the proceedings were terminated as the infringements were eliminated in the course of examination (20) or the fact of infringement was not confirmed (29). 81 decisions admitting the infringement and 72 directions were issued on the rest of the cases. 16 decisions were appealed in court and two of them were admitted wholly invalid by the court.

286 applications concerned noncompliance with the antimonopoly requirements to tenders on placement of orders for goods, works and services for state and local self-government needs. The largest number of applications was connected with unjustified restriction of access to participation in the tender (82) and with creation of priority conditions in the tender (74). 125

proceedings were initiated including 58 cases where the proceedings started on the antimonopoly bodies' initiative. In 50 cases the proceedings were terminated as the infringements were eliminated in the course of examination (29) or the fact of infringement was not confirmed (21). 75 decisions admitting the infringement and 47 directions were issued on the rest of the cases. 11 decisions were appealed in court and one of them was admitted wholly invalid by the court. .

105 applications concerning normative legal acts and actions of the federal bodies of executive authority, Central Bank of the Russian Federation, bodies of state authority of the Subjects of the Russian Federation and bodies of local self-government aimed at restriction of competition in financial services market were examined in 2006. 337 proceedings were initiated including 287 cases (85%) where the proceedings started on the antimonopoly bodies' initiative. In 66 cases the proceedings were terminated as the infringements were eliminated in the course of examination (48) or the fact of infringement was not confirmed (18). 271 decisions admitting the infringement and 204 directions were issued on the rest of the cases. 29 decisions were appealed in court and four of them were admitted wholly invalid by the court and one decision was admitted partially invalid.

6) Description of typical cases

Suppression of activity. Omskoye department of the FAS Russia initiated proceeding against Omsk city administration on the basis of unjustified refusal of the Transport department of Omsk city administration to carry out inspection of traffic safety of the passengers transport routes which had been elaborated independently by individual entrepreneurs Mr. Sapozhkov S.V. and Mr. Mukharamov K.I. The existing legislation did not prohibit carriers, including individual entrepreneurs, to elaborate new passengers transport routes independently. City administration was responsible for carrying out inspection of its conformity with the requirements of traffic safety and for approval of the traffic time-table. Unjustified refusal of Omsk city administration represented by its Transport department to carry out inspection of traffic safety of the passengers transport routes which had been elaborated independently by individual entrepreneurs was qualified as unjustified prevention from implementation of activity by authority bodies. Omskoye department of the FAS Russia admitted infringement of the antimonopoly legislation and issued to the city administration direction demanding to terminate the infringement. The direction was fulfilled.

Unjustified granting of benefits and advantages. Mariiskoye department of the FAS Russia initiated proceeding against the Ministry of Economic Development, Industry and Trade of the Republic Marii El which sent commercial offer of OAO "Gefest" together with information about the company's experience and price list of its production in a letter of 19.12.2005 № 09-5439 addressed to all other ministries of the Republic for their consideration. The letter contained request to bring this information to attention of the lower organizations and undertakings. Having sent for consideration commercial offer of a particular economic entity and thus promoting its product, the body of executive authority created favourable conditions for business activity for OAO "Gefest" in this particular case.

The proceeding was terminated as the infringement was eliminated voluntary and the Ministry of Economic Development, Industry and Trade of the Republic Marii El letter of 17.01.2006 № 09-120 was withdrawn.

Establishment of prohibition for commodity sale (purchase) from one region to another. Mordovskoye department of the FAS Russia initiated proceeding on the basis of application of OAO "Alatirskii hlebozavod" against administration of Ichalkovskii region of the Republic of Mordovia in connection with the prohibition to sell bakery produced by Alitarski bread-bakery plant of the Republic of Chuvashia on the territory of Ichalkovskii region of the

Republic of Mordovia in order to support local producers. Decision and direction to terminate the infringement of the antimonopoly legislation were issued on August 16, 2006. The direction was fulfilled.

Overlapping of the functions of authority body with the functions of economic entity. Nizhegorodskoye department of the FAS Russia initiated proceeding against Committee of state veterinary control of Nizhegorodskii region (hereinafter – Committee of state veterinary control) and state institution “State veterinary department of Nizhnii Novgorod” (hereinafter – GUNO “State veterinary department”) in connection with overlapping of the functions of authority body exercising veterinary supervision of Nizhegorodskii region with the functions of economic entity.

Committee of state veterinary control exercised powers of state authority body in the sphere of veterinary. GUNO “State veterinary department” was a part of state veterinary service system, it was non-commercial organization and main objective of its activity had nothing to do with profit in accordance with the charter and item 2 of article 5 of the law of the Russian Federation of 14.05.93 №4979-1 “On Veterinary”. Issue of accompanying veterinary forms (certificates) for goods under veterinary control to economic entities was functional responsibility of GUNO “State veterinary department” and directly arised from the tasks of state veterinary control.

In accordance with addendum to item 3.3 of GUNO “State veterinary department” charter which was approved by the order of Committee of state veterinary control of 23.12.2005 № 166, GUNO “State veterinary department” got the right to provide paid services of preparation and issue of veterinary documents (veterinary certificates, passports and all other documents necessary for getting permission on import-export of food staff) and other paid services according to existing legislation.

Having overlapped the functions of authority body exercising veterinary supervision of Nizhegorodskii region with the functions of economic entity, GUNO “State veterinary department” actually forced economic entities to conclude contracts on paid veterinary services with it.

Commission of Nizhegorodskoye department of the FAS Russia took decision admitting infringement of the antimonopoly legislation and issued Committee of state veterinary control and GUNO “State veterinary department” direction to terminate the infringement. In order to terminate the infringement GUNO “State veterinary department” was obliged:

- to introduce changes that would eliminate the possibility of collecting unjustified payments for issue of accompanying veterinary documents for goods subjected to veterinary control from economic entities in the price-list for paid veterinary services;

- to stop to collect payments for Issue of accompanying veterinary forms (certificates) for goods subjected to veterinary control;

- to introduce proof of the present direction fulfillment to Nizhegorodskoye department of the FAS of Russia.

GUNO “State veterinary department” appealed to the Court of Arbitration of Nizhegorodskaya region. Court of Arbitration of Nizhegorodskaya region admitted legality of the decision and the direction adopted by the antimonopoly body and refused to satisfy the appeal of GUNO “State veterinary department”.

Vesting of economic entities with authority functions. Having examined the application of the Office of Public Prosecutor of Prmskii krai, Permskoye department of the FAS Russia initiated proceeding against administration of Perm and department of Planning and development of Perm territory in connection with the fact that municipal organization “Perm town-planning informational center” was vested with authorities of the local self-government. According to item 2.2 of the charter, the main types of activity of this municipal institution were: issue of acts of selection of land area for preliminary coordination of placement of objects; preparation of draft

decisions of the body of local self-government on approval of acts of selection of land area for preliminary coordination of placement of objects, etc.

The organization collected payment for the works and services on the basis of the tariffs established by the founder (item 3.2 of the charter).

Commission of Permskoye department of the FAS Russia admitted the fact of infringement of the antimonopoly legislation and issued a direction to exclude powers belonging to the authority of the local self-government from item 2.2 of the charter of municipal organization "Perm town-planning informational center". The direction was fulfilled.

Agreement on market sharing. Habarovskoye department of the FAS Russia initiated proceeding against the Ministry of Food Industry and Consumers market of Habarovskii krai in connection with conclusion of agreements on cooperation and distribution of market according territorial principle with organizations implementing wholesale purchase and delivery of spirits. The agreements contained a clause according to which the organizations assumed obligations to purchase some particular volume of spirits from alcoholic beverage producers of Habarovskii krai. Commission of Habarovskoye department of the FAS Russia admitted the fact of infringement of the antimonopoly legislation and issued a direction to the Ministry of Food Industry and Consumers market of Habarovskii krai and organizations-participants of the agreements to bring the agreements in conformity with the antimonopoly legislation. The direction was fulfilled.

Concerted actions on restriction of access to the market. On the basis of application of a group of businessmen of Zhukovskii region Kaluzhskoye department of the FAS Russia initiated proceedings against Zhukovskii region administration, open-end company "Kaluzhskaya sales company", open-end company "Kaluzhskaya energy management company" and municipal unitary undertaking (MUP) "Zhukovskie regional communal electricity and heat networks" in the connection with implementation of concerted actions which resulted in restriction of competition in the market of electricity supply services.

Meeting of Zhukovskii region administration with the heads of the above mentioned companies was held on 30.09.2005. At the meeting the decision on termination of energy supply of town Belousovo and settlement Visokinich by MUP "Zhukovskie regional communal electricity and heat networks" from 01.11.2005 and of town Zhukov from 01.01.2006 was taken and was written down in the minutes. Energy supply of these territories was to be provided by open-end company "Kaluzhskaya sales company".

In October-December 2005 the open-end company "Kaluzhskaya sales company" and MUP "Zhukovskie regional communal electricity and heat networks" sent the customers notifications informing about termination of energy supply by MUP "Zhukovskie regional communal electricity and heat networks" and about the necessity to conclude a contract with the open-end company "Kaluzhskaya sales company". In the case of refusal to conclude such contract the open-end company "Kaluzhskaya sales company" did not guarantee the energy supply.

Commission of Kaluzhskoye department of the FAS Russia admitted that actions of Zhukovskii region administration and of the relevant companies had created discriminatory conditions which restricted access to the energy supply services market and contradicted with the antimonopoly legislation. Commission took decision to issue direction to the participants of the concerted actions to terminate the infringement. In an effort to fulfill the direction, letters informing that contracts on energy supply could be concluded with any energy supplying organization but not only with the open-end company "Kaluzhskaya sales company" were sent to all economic entities which had received the mentioned above notifications.

Concerted actions aimed at tariffs increase. On the basis of the application of OOO "Lukoil Nizhnevolzhsknefteproduct" Penzenskoye Department of the FAS Russia initiated proceeding against town Nizhnii Lomov administration and municipal unitary undertaking (MUP)

“Housing and Communal services” concerning concerted actions on increase of the tariff to undertakings for taking out and burial of hard domestic waste.

By decision of 09.08.2005 № 505 Nizhnii Lomov administration decreased for the citizens the norm of accumulation of hard domestic waste without any grounds and it allowed MUP “Housing and Communal services” to use for calculation of the tariff twice understated in comparison with adopted earlier volume of hard domestic waste. Decrease of the norm of accumulation of hard domestic waste during establishment of tariffs for taking out and burial of the waste of undertakings was a hidden form of cross subsidation of the citizens’ expenses at the cost of undertakings and it created advantages for MUP “Housing and Communal services” and let it get unjustified profit.

Commission of Penzenskoye Department of the FAS Russia took decision admitting infringement of the antimonopoly legislation and issued direction to terminate the infringement obligating Nizhnii Lomov administration and MUP “Housing and Communal services” to revise the tariffs for taking out and burial of hard domestic waste. The direction was fulfilled.

Non-compliance with the antimonopoly requirements during tenders. On the basis of application of OOO “Victoria” Permskoye department of the FAS Russia initiated proceeding against Perm administration and Department of economy and investments of Perm which infringed the antimonopoly legislation during organization and holding of open tender on selection of performer of a complex of services of calculation and collection of payments from citizens for housing and communal services. Infringements were the following:

favourable conditions for participation in tender were created to OOO “Inkomus FT” which was included into a group of persons with one of organizer of the tender and creator of tender’s documentation (Head of financial department and director of the company were married) ;

access to participation in the tender was restricted by establishment of criteria of competence in the form of availability of certified software product in tender’s documentation as well as by rejection of application of OOO “Victoria” on the basis of lack of ready data base for housing and communal services consumers’ accounting.

Commission admitted the fact of infringement of the antimonopoly legislation by administration and Department of economy and investments of Perm and issued direction to terminate the infringement by cancellation of the tender’s results and consideration of the question on introduction of changes in contracts for providing services of calculation and collection of payments for housing and communal services before holding tender on placement of municipal order and its summation.

Perm administration fulfilled the direction. Decision and direction of the antimonopoly body were appealed in court by OOO “Incomus FT”. The court refused to satisfy the appeal.

Non-compliance with antimonopoly requirements during selection of financial organizations attracted for implementation of special operations with funds of relevant budget. On the basis of the results of control of compliance with the antimonopoly legislation by state organization “Agency of municipal order of Zelenodolskii region and town Zelenodolsk” Tatarstnskii department of the FAS Russia established that the united Soviet of people’s deputies of Zelenodolsk concluded contract on obligatory liability insurance of car owners with company “Insurance company of lawenforcement forces - Ural Sib”. The contract was filed in the Register of state contracts on 30.12.2005 №000100054198. State organization “Agency of municipal order of Zelenodolskii region and town Zelenodolsk” was holder of the Register. The mentioned contract was concluded without holding open tender among financial organizations and the tender procedure had not been coordinated with the antimonopoly body.

After the Order of the President of the Republic of Tatarstan of 02.11.2005 №UP-410 “On Abolishment of Administrations of the Regions and Cities of Republican Significance and districts in the cities of the Republic of Tatarstan” came into force on 01.01.2006, Soviet of municipal district became legal successor of the united Soviet of people’s deputies of Zelenodolsk.

Proceeding against Soviet of Selenodolskii municipal district was imitated and decision on termination of the infringement was adopted. It was directed to hold open tender or auction on selection of an insurance company for carrying out obligatory liability insurance of car owners for 2007 and to submit the information to Tatarstnskii department of the FAS of Russia. Tender was held on 11.01.2007.

4. Actions Aimed at Suppression of Unfair Competition

a) Description of activity of competition authorities and courts

In total 1119 controlling and supervising measures were carried out with the aim of prevention and suppression of unfair competition in 2006. 384 infringements were disclosed. 372 proceedings were initiated.

661 applications concerning the facts of unfair competition in commodity markets were examined. Main part of the applications (34%) concerned sale, exchange or introduction in circulation by another means of products with illegal use of the results of intellectual activity and equated to it means of individualization of a legal person, products, works and services; almost 18% of applications were connected with distribution of false information and 16% concerned the facts of consumers' misleading. Level of unfair competition practically coincided with the level of 2005. 307 proceedings were initiated and 40 of them were initiated on the antimonopoly bodies' initiative. In 108 cases the proceedings were terminated as the infringement was eliminated in the course of examination (63) and because the fact the infringement was not confirmed (45). 199 decisions admitting infringement were taken and 169 directions were issued. 36 decisions were appealed in court. 7 decisions were admitted wholly invalid by court and 2 decisions were admitted partially invalid.

Practice of prevention of unfair competition in the financial services markets was considerably inferior to the same in the commodity markets. At the same time the level of unfair competition in the financial services markets in 2006 practically coincided with the level of 2005. 85 applications were examined. Again, as it was in 2005, most of the applications (72%) were connected with unfair competition in the insurance services markets. 65 proceedings were initiated and 34 of them were initiated on the antimonopoly bodies' initiative. In 33 cases the proceedings were terminated as the infringements were eliminated in the course of examination (20) or the fact of infringement was not confirmed (13). 32 decisions admitting the infringement and 27 directions were issued on the rest of the cases. 7 decisions were appealed in court and 3 of them were admitted valid by the court and 4 decisions are still at the stage of court examination.

b) Description of typical cases

Illegal use of the results of intellectual activity and equated to it means of individualization of a legal person, products (works, services). Altayiskoye kraevoye department of the FAS Russia received from the Main Directorate of Internal Affairs (GUVD) of Altayiskii kraii papers of the case of infringement by OOO "007" of the antimonopoly legislation in the part concerning infringement of intellectual property rights and neighbouring rights. UBEP GUVD officers together with a specialist of Altayiskoye kraevoye department of the FAS Russia carried out inspection of sales outlet of OOO "007" selling DVDs. In the course of inspection 100 DVDs with indications of counterfeit (low printing quality, availability of two and more objects of copyrights and etc.) were found and withdrawn. According to professional conclusion of expert of the Main Directorate of Internal Affairs the withdrawn DVDs were produced with infringement of intellectual property rights. Copyright and neighbouring rights owners of this product were the Russian DVD Producers' Association and a number of foreign companies. Thus the actions of OOO "007" were qualified as

unfair competition implemented by the way of sale of product with illegal use of the result of intellectual activity and equated to it means of individualization of a legal person, individualization of product and consumers' misleading as to the character, method and place of manufacture, qualitative characteristics of the product.

Direction to terminate the infringement of the antimonopoly legislation was issued to OOO "007". The direction was fulfilled within the established period.

Dissemination of false, inexact or distorted information. Moscovskoye department of the FAS Russia carried out control inspections of more than 500 currency exchange offices of commercial banks in Moscow and Moscow region (towns Mitischi and Korolev) aimed at revealing of non-correspondence of the exchange rates established inside the offices with the rates displayed outside the offices. On the basis of the results of inspections 7 reports were drawn up and proceedings on the facts of unfair competition in the financial services market in the part concerning dissemination of false, inexact or distorted information which could cause damage to another financial organization were initiated. Joint Commission of Moscovskoye department of the FAS Russia and MGTU of Bank of Russia took decision to terminate proceedings in 3 cases in connection with voluntary elimination of the infringements and to issue decisions to credit organizations on termination of infringement of the antimonopoly legislation in 4 cases.

5. Statistics

In 2006 the work on revealing and suppression of infringements of the law of RSFSR of 22.03.91 №948-1 "On Competition and Restriction of Monopolistic Activity in the Commodity Markets" within the period from January 1 to October 25 and from October 26 when the Federal law of 26.07.2006 №135-FZ "On Protection of Competition" came into force was characterized by the following data:

Subject of legislative rule of the law of RSFSR "On Competition and Restriction of the Monopolistic Activity in the Commodity Markets" (or the federal law "On Protection of Competition")	Examined number of facts having indications of the law infringement*	Infringements terminated before starting of proceedings	Initiated proceedings	Infringements disclosed in the result of proceedings
Disclosure of infringements of the law and its suppression, total:	9775	1295	3759	3113
Including on the following indications:				
abuse of dominant position	4072	467	1168	970
agreements and concerted practices restricting competition of economic entities	140	9	66	51
acts, actions and concerted practices restricting competition of bodies of executive authority and bodies of local self-government	2607	722	1678	1319
unfair competition	734	59	307	262
infringement of state control norms of concentration in the commodity markets	135	43	147	132

Work on revealing and suppression of infringement of the federal law of 23.06.99 №117-FZ "On Protection of Competition in the Financial Services Market" within the period from Jan-

uary 1 to October 25 and from October 26 when the Federal law of 26.07.2006 №135-FZ “On Protection of Competition” came into force was characterized by the following data:

Subject of legislative rule of the federal law “On Protection of Competition in the Financial Services Market” (or the federal law “On Protection of Competition”)	Examined number of facts having indications of the law infringement*	Infringements terminated before starting of proceedings	Initiated proceedings	Infringements disclosed in the result of proceedings
Disclosure of infringements of the law and its suppression, total:	1232	199	681	634
Including on the following indications::				
abuse of dominant position	34	2	5	5
agreements and concerted practices restricting competition of financial organizations	355	51	58	50
acts, actions and concerted practices restricting competition of Central Bank, bodies of executive authority and bodies of local self-government	457	99	324	305
unfair competition	132	22	65	52
infringement of state control norms of concentration in the financial services market	87	4	83	80

III. Role of competition authorities in formulation and implementation of other policies

1. Administration Reform

The most considerable contribution of the FAS Russia in implementation of administrative reform of the Russian Federation was participation in elaboration of Concept and Plan of actions on implementation of administrative reform in 2006-2008 which were adopted by the Government of the Russian Federation in Decision of 25.10.2005 №1789-r. Plan of actions accomplished management tasks on results, standardization and regulation and optimization of functions of the bodies of executive authority and resistance to corruption, increase of efficiency of interaction between bodies of executive authority and public, modernization of information ensuring system of bodies of executive authority, ensuring of administrative reform.

The FAS Russia carried out work on introduction of principles of management and results and elements of projects-targeted budgeting. Reports on results and main trends of the FAS activity for 2006-2008, 2007-2009 and 2008-2010 were prepared and submitted to the Government of the Russian Federation, the Ministry of Economic Development of Russia and the Ministry of Finance. 10 analytical target projects of the authority, including expenditures grouping of the funds aimed at accomplishment of particular tactical task of the authority were elaborated in the

*Number of facts having indications of the law infringement is defined by the sum of the number of examined applications, number of infringements terminated in the course of inspections and number of proceedings initiated by initiative of the antimonopoly bodies.

course of preparation of the mentioned reports. Expenses distributed among these programmes exceeded 80% of the FAS Russia budget of expenditure.

Elaboration of approved target projects which included complex of interconnected measures aimed at accomplishment of particular tactical task of the authority was carried on:

“Competition advocacy” aimed at increase of efficiency of the system of informing of the market participants about possibilities of application of the antimonopoly legislation to protect their rights and about law enforcement practice in this field, rise of interest to scientific studies in the field of competition policy;

“Competition analysis” aimed at increase of efficiency of disclosure, prevention and elimination of infringements of the antimonopoly legislation.

The FAS Russia established Commission on implementation of administrative reform in the Federal Antimonopoly Service (order of 22.06.2006 № 162) and defined its competences, rights and composition. Protocol of the commission meeting of 30.06.2006 №3 approved Detail Plan-Diagram of measures on administrative reform implementation in 2006. Programme of the Federal Antimonopoly Service on administrative reform implementation in 2006-2008 was approved by the order of the FAS Russia of 24.10.2006 №271.

The most important and significant for citizens and businessmen results of measures of administrative reform implemented in 2006:

the following administrative regulations on execution of state functions by the FAS Russia were elaborated:

establishment of dominant position of an economic entity (order of the FAS Russia of 17.01.2007 № 5, registered by the Ministry of Justice of Russia on 23.05.2007 №9541);

introduction of the Register of economic entities whose share in the particular commodity market exceeds 35% (order of the FAS Russia of 17.01.2007 № 6, registered by the Ministry of Justice of Russia on 14.03.2007 №9105);

coordination of creation and reorganization of commercial organizations provided for by the antimonopoly legislation of the Russian Federation (order of the FAS Russia of 25.01.2007 № 21);

coordination of transactions with stocks (shares), property of commercial organizations, rights concerning commercial organizations, with stocks (shares), assets of financial organizations and rights concerning financial organizations in the cases provided for by the antimonopoly legislation of the Russian Federation (order of the FAS Russia of 25.01.2007 № 20).

The main tasks of administrative reform including optimization of functions of the bodies of executive authority, transparency of their activity as well as increase of efficiency of interaction with citizens were taken into account in the course of elaboration of the regulations. Thus the procedure of information about implementation of state function by the antimonopoly body and the procedure of getting consultation on implementation of state function by the antimonopoly body were regulated for the first time. Public discussion and independent examination of the regulations were carried out. Introduction of administrative regulations will let the antimonopoly body exercise its functions effectively and reduce the time of performance in each particular case which is the most important for addressees of state functions, i.e. citizens and legal persons;

Departmental anticorruption programme of the FAS Russia for 2007-2008 was elaborated and included plan and schedule of its implementation. It will let decrease corruption risks in the FAS Russia and increase effectiveness of the service and its territorial bodies functioning;

Implementation of the project “Elaboration of mechanisms of public control over activity of the FAS Russia by creating a network of Public Consultation Councils from non-governmental organizations” was realized. Public Consultation Council was created under the

Headquarters of the Federal Antimonopoly Service, 7 Councils were created under the territorial bodies of the FAS Russia. Thus representation of active public was formed in consultation bodies of the FAS Russia which implemented new principle “From awareness to participation in assessment of activity and policy of the Service”;

Informational openness of the Service to the citizens considerably increased in the result of complex of measures on disclosure of information about the FAS Russia activity (publications on the official website, active cooperation with mass media and etc.), many documents affecting various groups of population became accessible. It led to increase of citizens’ awareness about the Service activity and as a consequence to increase of the number of requests and applications on the matters connected with application of the antimonopoly legislation, legislation on advertising, legislation on placement of orders as well as with complaints on infringement of the antimonopoly legislation. Besides, organizational and technical base for further disclosure of information about the FAS Russia activity was created in 2006. It will let the FAS Russia ensure more effective interaction with the public.

A number of Advisory Councils on various types of activity were created under the FAS Russia. Their aim is to ensure interaction and exchange of peer review between representatives of regulatory bodies and business community.

2. Carrying out of controlling measures on observance of requirements of the federal law of 21.07.2005 № 94-FZ “On Placement of Orders for products, works and Services for State and Municipal Needs”

In January 2006 the federal law of 21.07.2005 № 94-FZ “On Placement of Orders for products, works and Services for State and Municipal Needs” came into force (hereinafter – the law on placement of orders). Decision of the Government of the Russian Federation of 20.02.2006 №94 defined the FAS Russia as authorized federal body of executive authority for implementation of control in the sphere of placement of orders except control in the sphere of defense order.

In accordance with the order of the FAS Russia of 28.04.2006 №117 two Commissions were established. Commission on control in the sphere of placement of orders by means of open tenders and Commission on control in the sphere of placement of orders by means of closed tenders with the following functions: examination of complaints; issue of decisions, proposals and directions; coordination of the possibility to conclude state contract with single supplier; coordination of holding closed tenders and auctions; coordination of unscheduled inspections in the course of examination of complaints. Territorial bodies of the FAS Russia were empowered with the following competences:

- examination of complaints, coordination of placement of orders for the federal needs at the single supplier when the federal bodies of executive authority or their authorized recipients of budget funds place the order on the territory under the antimonopoly body’s jurisdiction;

- examination of complaints in the course of placement of orders for the needs of the Subjects of the Russian Federation or for the municipal needs.

In 2006 2471 complaints were examined. On the basis of examination of the complaints there were issued: 213 proposals (1 was annulled by court), 1013 directions (7 were annulled by court); 3988 applications with the request to explain the law were received and for all of them written replies were given; 757 applications on coordination of the possibility to conclude state contract with single supplier were contented (380 were rejected); 632 scheduled inspections were carried out and 411 proposals and 53 directions were issued on the basis of the inspections (4 were annulled by court); 506 decisions on imposition of administrative fines on the sum of 3122 thousand rubles were issued; 31 suits on denunciation of the state and municipal contracts which had been concluded with infringement of the law on placement of orders were brought to court; 546 seminars dedicated to explanation of provisions of the law on placement of orders were conducted with participation of the territorial bodies’ officials.

3. Participation in foreign trade regulation

In 2006 the FAS Russia continued its participation in the activity of Interdepartmental Commission on protective measures in foreign trade and customs and tariffs policy within the frames of which the work on introduction of measures protecting home producers and on adjustment of measures of tariff and non-tariff regulation applied in foreign economy policy was carried out. The FAS of Russia produced its conclusions assessing consequences of introduction of the mentioned measures from the point of view of retention and support of normal competition environment in the internal market of the Russian Federation, contribution to increase of competitive abilities of the Russian commodities and at the same time non-admission of unjustified protectionism and ensuring protection of consumers' interests.

Government of the Russian Federation coordinated with the FAS Russia and adopted Decision of 24.03.2006 №168 "On Temporary Rates of Import Duty for Special Types of Technological Equipment" which provided for abolishment of import duty rates for technological equipment which had no analogue in Russia.

The FAS Russia supported the following proposals:

on abolishment of import duty rates for agricultural stuff that are not produced and are not grown in the Russian Federation (tea, leather and nut); for raw materials which are not produced in the Russian Federation and are used in the production of industrial commodities (raw materials containing germanium and natural and depleted uranium);

on increase of import duty rates for buses having service life from 3 to 7 years and motor equipment; car bodies which service life exceeds 3 years.

In order to stimulate production of timber of profound processing and to increase competitive abilities of the home timber industry complex the FAS Russia coordinated draft decision of the Government of the Russian Federation on abolition of export duty rates for some types of saw timber.

III. Competition Authority Resources

1. Annual budget

In 2006 annual budget of the competition authority (the FAS Russia) constituted 554'046,2 thousand rubles (15'895'000 Euros), the central Headquarters received 189'262,6 thousand rubles (5'430'000 Euros) and territorial bodies received 364'783,6 thousand rubles (10'465'000 Euro), including expenses for maintain of employees and facilities.

2. Human resources

On 01.01.2007 the factual number of employees of the FAS Russia constituted 2197 persons (340 – central Headquarters and 1857 – territorial bodies).

83% of employees of the central Headquarters had higher education including economic and juridical (49%) and 10.6 % had academic degrees.

98.6% of employees of the territorial bodies had higher education including economic and juridical education (&!.2%), 16.5% had two and more higher educations and 4.5% had academic degrees. Central Headquarters of the FAS Russia were filled up at 86.7% and its territorial bodies were filled up at 78.8%.

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20. Project “Elaboration of the method of defining latency of infringements of the antimonopoly legislation and of carrying out studies in this sphere”. State contract of 18.07.2006 №27, OOO “Intecom”

21. Project “Sociological Studies on the Issues of Unfair Competition” State contract of 14.07.2006 №28, OAO “All-Russian Center of Public Opinion Study”

22. Project “Elaboration of mechanisms of public control over the results of the FAS of Russia activity by means of creation of a network of Public Consultation Councils comprised of non-governmental organizations”. State contract of 11.10.2006 №32, Non-commercial partnership Institute of National project “Social contract” (NP INP “Social contract”)

23. Project “Elaboration of the system of outsourcing of administrative and management processes of the FAS of Russia”. State contract of 11.10.2006 №33, Autonomous non-commercial organization “National institute of systematic study of entrepreneurship’s problems” (ANO “NISIPP”)

24. Project “Elaboration of departmental anticorruption programme of the FAS of Russia”. State contract of 11.10.2006 №34, Autonomous non-commercial organization “Information and consultative center “Business-Thesaurus”

25. Project “Elaboration of administrative regulations on implementation of state functions empowered to the FAS of Russia”. State contract of 11.10.2006 №35, Autonomous non-commercial organization “National institute of systematic study of entrepreneurship’s problems” (ANO “NISIPP”)

26. Collection of reporting data of the antimonopoly bodies activity on control over observance of the antimonopoly legislation and legislation on advertising for 2006, the Federal Antimonopoly Service (the FAS of Russia) Moscow, 2007.

27. Information about activity of the FAS of Russia territorial bodies of Central, North-Western, Southern, Privolzhskii, Uralskii, Sibirskii and Dalnevostochnii federal regions in 2006, the Federal Antimonopoly Service (the FAS of Russia) Moscow, 2007.

28. Report “On the results and main trends of activity of the Federal Antimonopoly Service for 2007-2009”. The FAS of Russia, Moscow, 2006.

29. Seminar’s materials on the following topics:

“Implementation of state control over state procurements in accordance with the federal law of 21.07.2005 № 94-FZ “On Placement of Orders for Goods, Works and Services for State and Municipal Needs”;

“Competition advocacy” with participation of TACIS experts, March 2006, Moscow.

30. Seminar’s materials on the following topics:

“Preparation and implementation of control measures by the antimonopoly bodies”;
 “Questions of control and supervision over observance of the antimonopoly legislation including examination of cartels” with participation of the USA experts, April 2006, Moscow.

31. Seminar’s materials on the following topics:

“Qualitative analysis of condition of competition environment in the commodity markets is the basis for prevention of anticompetitive actions. Problems and solutions (on the example of the markets of oil products, housing and communal services, power industry and liquefied gas)”;

“Implementation of state control over state procurements in accordance with the federal law of 21.07.2005 № 94-FZ “On Placement of Orders for Goods, Works and Services for State and Municipal Needs”;

“Methods of analysis of commodity and financial markets while examination of the cases of infringement of the antimonopoly legislation” (with participation of the USA experts), March 2006, Vladimir.

32. Seminar’s materials on the following topics:

“Methodology and court practice of the antimonopoly bodies in regulation of relations in electricity and gas market. Monitoring results of unbundling in power industry”;

“Competition advocacy” (with participation of TACIS experts);

“Implementation of state control over state procurements in accordance with the federal law of 21.07.2005 № 94-FZ “On Placement of Orders for Goods, Works and Services for State and Municipal Needs”;

“Protection of competition in the financial services market”, May 2006, Izhevsk

33. Materials of the seminar “Natural monopolies, including reform in power industry and gas sector (within the framework of the Russian-Swedish programme on cooperation), June 2006, Arkhangelsk июнь.

34. Seminar’s materials on the following topics:

“Arbitration Courts’ practice of examination of cases on the suits connected with infringement of the antimonopoly legislation, law “On energy” and CAI of the RF in commodity markets (took place in Sibirskii Federal Okrug with participation of judges of Arbitration Courts of the Subjects of the RF)”;

“Implementation of state control over state procurements in accordance with the federal law of 21.07.2005 № 94-FZ “On Placement of Orders for Goods, Works and Services for State and Municipal Needs” (with participation of TACIS experts)

“Competition advocacy”, August 2006, Novosibirsk.

35. Seminar’s materials on the following topics:

“Regulation of activity of the subjects of natural monopolies, including in the sphere of gas and energy supply”;

“Implementation of state control over state procurements in accordance with the federal law of 21.07.2005 № 94-FZ “On Placement of Orders for Goods, Works and Services for State and Municipal Needs”;

“Protection of competition in the financial services market”;

“Competition advocacy”, September 2006, Vladivostok.

36. Seminar’s materials on the following topics:

“Regulation of activity of the subjects of natural monopolies including fuel and energy complex (on the example of the gas market)”;

“Economic concentration analysis during control of large transactions” (with participation of TACIS experts);

“Protection of competition in the financial services market”;

“Practice and problems connected with application of the legislation on advertising”, September 2006, Astrakhan.

37. Seminar’s materials on the following topics:

“Implementation of state control over state procurements in accordance with the federal law of 21.07.2005 № 94-FZ “On Placement of Orders for Goods, Works and Services for State and Municipal Needs”;

“Economic concentration analysis during control of large transactions”;

“Practice and problems connected with application of the legislation on advertising”;

“Protection of competition in the financial services market”, November 2006, Chel-yabinsk.

38. “Antimonopoly regulation practice in Permskii Krai”, November 2006, Perm.