

**REPORT ON COMPETITION POLICY IN RUSSIAN
FEDERATION IN 2019 TO ORGANISATION FOR
ECONOMIC CO-OPERATION AND
DEVELOPMENT**

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Part 1. Changes to competition laws and policies, proposed or adopted

1.1. Summary of new legal provisions of competition law and related legislation

The main goals and objectives of the FAS Russia in 2019 were related to the implementation of the National Competition Development Plan in the Russian Federation for 2018-2020 (hereinafter – the National Plan), approved by the Decree of the President of the Russian Federation of December 21, 2017 No. 618¹.

As part of the implementation of the National Plan, the Government of the Russian Federation has developed a comprehensive roadmap for the development of competition for 2018-2020².

At the end of 2019, 19 out of 38 goals set in the roadmap were achieved, including a number of legislative acts in the field of competition:

1.1.1. Prohibition of the creation and implementation of activities of unitary enterprises

On December 27, 2019, Federal Law No. 485-FZ "On Amendments to the Federal Law "On State and Municipal Unitary Enterprises" and Federal Law No. 135-FZ dated July 26, 2006 "On Protection of Competition" was adopted, which prohibits the creation and implementation of activities of unitary enterprises in competitive markets.

In accordance with the law, state and municipal unitary enterprises may be created in cases stipulated by federal laws, acts of the President of the Russian Federation or the Government of the Russian Federation. The areas of activity (the areas of natural monopolies, the areas of culture, art, cinematography and the preservation of cultural values; implementation of activities in the field of radioactive waste management, including the disposal of radioactive waste, etc.) in which unitary enterprises can be created, provides for the possibility of creating or maintaining an existing unitary enterprise under the need to eliminate an emergency situation, to prevent a threat to the normal life of the population.

The law stipulates that a unitary enterprise, which was created in violation of this prohibition or does not carry out the types of activities for which it was created, is subject to liquidation on the basis of an order of the antimonopoly body or in court at the suit of the antimonopoly body.

It also provides for the right of a public authority or local government to send a request to the antimonopoly body to issue an opinion on the compliance of the creation of a unitary enterprise or its types of activities with antimonopoly legislation, and the

¹ <http://en.fas.gov.ru/documents/documentdetails.html?id=15342>

² <https://www.garant.ru/products/ipo/prime/doc/71930872/> (Russian version only)

procedure for considering the request is determined. The said conclusion is valid for one year from the date of its issuance by the antimonopoly authority.

The antimonopoly body is empowered to issue a warning about the liquidation of a unitary enterprise or about the termination of activities carried out in violation of the requirements of the Federal Law, and the founders of the unitary enterprises are obliged to comply with these warnings.

At the same time, it is envisaged that unitary enterprises created before the entry into force of the Federal Law and operating in commodity markets that are in a state of competition without the grounds established by the Federal Law are subject to reorganization or liquidation by January 1, 2025 or liquidation in court.

1.1.2. Completion of the process of cancellation of domestic roaming

On June 1, 2019, Federal Law No. 527-FZ of December 27, 2018 came into force "On Amendments to Articles 46 and 54 of the Federal Law "On Communications", which secured the abolition of charging fees for incoming voice connections throughout the Russian Federation, as well as equal conditions for tariffication of communication services in the home region and when traveling across the territory of the Russian Federation in the communication network of your operator.

FAS Russia initiated the issue of canceling roaming in 2016. The working group under the FAS Russia came to the need to apply the principles of fair roaming in this area, aimed at creating non-discriminatory conditions in the markets of telecommunication services, bringing tariffs for communication services in roaming to a reasonable level close to that prevailing in the territory of the "home region".

The Decree of the President of the Russian Federation of December 21, 2017 No. 618 "On the main directions of state policy for the development of competition" provides for measures to eliminate the unjustified difference in tariffs for cellular services when traveling in the Russian Federation (roaming).

As part of the National Competition Development Plan in the Russian Federation for 2018-2020, the issue of eliminating the unreasonable difference in tariffs for cellular services when traveling in the Russian Federation (roaming) was recognized as one of the most important for the development of competition in the context of the digitalization of the economy.

In pursuance of the Decree of the President of the Russian Federation, the Government approved the Roadmap on Competition, the section "Telecommunications" of which provided for drafting of the Federal Law on the abolition of roaming, measures to optimize the procedure for constructing, connecting and interconnecting networks, simplifying the design, construction, operation of communication networks, reducing the risks of restricting competition, creating conditions for competition in the market

for connection and traffic transmission services and for reducing prices for communication services by optimizing traffic transmission methods.

On June 1, 2019, a federal law came into force, which extends the principles of fair roaming not only to dominant companies, but also to all mobile operators. It also introduced a requirement for free incoming voice connections in national roaming.

As a result of the large-scale work carried out by the FAS Russia with mobile operators, consumers saved about 6 billion rubles, while operators retained their revenues, since the volume of services simultaneously increased.

It should be noted that due to the timely cancellation of domestic roaming, residents of the Russian Federation during the pandemic caused by COVID-19 were provided with stable cheap telephone communications and data transmission.

1.1.3. The effect of the FAS Russia rulings in relation to the governmental authorities

The Federal Law of December 27, 2019 No. 509-FZ "On Amendments to Article 52 of the Law on Protection of Competition", which excludes the possibility of suspending the decisions and orders of the antimonopoly authorities in relation to public authorities and local self-government bodies, with the exception of cases when such suspension is introduced by a judicial act.

Earlier, in the event of an appeal against the FAS Russia ruling in court, its execution was suspended until the decision of the arbitration court entered into legal force. The amendments introduce an exception to this rule, canceling its effect in relation to the orders of the antimonopoly body to state authorities and local authorities.

In 2018, the antimonopoly authorities issued over 560 such orders, of which 212 were challenged in court, 4 of which were declared invalid by the court.

Thus, during the court proceedings, and this is in more than 200 cases with the suspension of the rulings, the conditions leading to the restriction of competition remained in the commodity markets. On average, litigation takes 1 year.

An exception to the general rule to suspend the order of the antimonopoly authority when filing an application to the court to appeal it will also reduce the number of violations by public authorities and local governments, which is one of the main tasks of the National Competition Development Plan.

1.1.4. Introduction of antimonopoly compliance

As part of the implementation of the National Competition Development Plan, the FAS Russia, together with the Association of Antimonopoly Experts, has been developing draft amendments on fixing antimonopoly compliance at the legislative level for several years. In 2019, the Project was approved by the Government of the Russian

Federation and submitted for consideration to the State Duma of the Russian Federation³.

On March 12, 2020, Federal Law No. 33-FZ of March 1, 2020 "On Amendments to the Federal Law "On Protection of Competition", providing for the consolidation of the concept of "a system of internal compliance with the requirements of antimonopoly legislation" in the Law on Protection of Competition⁴, the main requirements for the content of internal acts of business entities that form the system of antimonopoly compliance.

In the current version, taking into account these changes, the Law on the Protection of Competition provides that an economic entity has the right to send an internal act (acts) to the federal antimonopoly body, forming a compliance system to establish its compliance with the antimonopoly legislation. Based on the results of consideration of these acts, the FAS Russia gives an opinion on its (their) compliance or non-compliance with the requirements of antimonopoly legislation. In this case, the basic principle of the implementation of this system of measures is voluntariness.

The introduction of compliance will be taken into account by the antimonopoly authority when classifying an economic entity as a particular risk category within the framework of a risk-based approach when carrying out measures to monitor compliance with antimonopoly legislation.

The new law will not only bring the necessary clarity to other legal norms, but will also help reduce the risk of cartel formation and other violations of competition law, protect companies from fines, and officials from possible liability.

1.1.5. Modernization of the procurement system

From January 1, 2019, amendments to the Federal Law of 05.04.2013 No. 44-FZ "On the contract system in the field of procurement of goods, works, services to meet state and municipal needs" (hereinafter referred to as the Law on the Contract System) entered into force, aimed at electronization of the procurement system. These changes include:

- introduction of a unified register of procurement participants, according to which the registration of procurement participants in the Common procurement information system is carried out in electronic form on the basis of information and documents in the manner and terms determined by the Government of the Russian Federation;
- introduction of the obligation of the customer to conduct all competitive procurement in electronic form, including an open tender;

³ <http://en.fas.gov.ru/press-center/news/detail.html?id=54772>

⁴ <http://en.fas.gov.ru/press-center/news/detail.html?id=54786>

- new requirements have been introduced for operators of electronic platforms (must own an electronic platform, must be included in the list of operators of electronic platforms approved by the Government of the Russian Federation), and uniform requirements have been established for operators of electronic platforms.

It should be noted that the Federal Law of December 27, 2019 No. 449-FZ "On Amendments to the Federal Law "On the Contract System in the Sphere of Procurement of Goods, Works, Services to Ensure State and Municipal Needs" amended the Law on the Contract System, providing for a mechanism carrying out purchases of goods through an electronic store, provided that the price does not exceed 3 million rubles, and the purchase of goods is carried out according to the characteristics that are provided for in the Catalog of goods, works and services (these changes entered into force on July 1, 2020).

1.1.6. Legislation in the field of pharmaceuticals

In 2019, the Federal Law of 06.06.2019 No. 134-FZ and the Resolution of the Government of the Russian Federation of 16.12.2019 No. 1683, elaborated by the FAS Russia, on the revision (re-registration) of all the maximum selling prices registered in the period from 2010 to 2019 of manufacturers of pharmaceuticals included in the list of essential medicines were adopted in accordance with the current rules. In addition, the obligation of manufacturers to reduce prices when they decrease in reference countries has been introduced.

For several years, the FAS Russia has been convincing the concerned executive authorities, the Government of the Russian Federation and deputies of the State Duma of the need to introduce relevant legal measures into the law and the resolution of the Government of the Russian Federation.

The need for a revision was due to the fact that since 2010 the registration of prices has been carried out in accordance with the rules establishing various requirements, including those that discriminate against domestic producers in relation to foreign producers, and also do not ensure the maintenance of registered prices in Russia at the price level in reference countries.

The law also establishes the obligation of manufacturers to independently track the prices of their pharmaceuticals in reference countries and submit an application for re-registration of the price downward in case of its decrease in reference countries. In addition, an obligation was introduced for manufacturers of generic pharmaceuticals to reduce registered prices when they decrease for reference (original) pharmaceuticals.

During 2020, the Russian Ministry of Health and the FAS Russia are obliged to re-register all registered in 2010-2019 maximum selling prices of manufacturers for pharmaceuticals included in the list of essential medicines (more than 40 thousand prices).

As a result, there is a significant decrease in prices for pharmaceuticals to the level of prices in the reference countries for Russia, which is aimed at increasing the availability of medicines for the population.

It is also expected to put in order the state register of prices with the exclusion of irrelevant data from it, which will significantly increase the efficiency of using the register by the population, state and municipal customers, and regulatory authorities.

1.2. Other regulatory measures, including methodological recommendations (administrative provisions, etc.)

1.2.1. Guidelines of the Presidium of the FAS Russia⁵

The guidelines of the FAS Russia play an important role in ensuring compliance with the norms of antimonopoly legislation and shaping judicial practice.

In accordance with paragraph 1 of part 4 of Article 23 of the Law on Protection of Competition, in 2019, the Presidium of the FAS Russia, based on the results of the analysis and generalization of law enforcement practice, approved the following guidelines:

1) Guidelines of the FAS Russia No. 16 "On the application of parts 7, 8 of Article 11 of the Law on Protection of Competition" (approved by the minutes of the Presidium of the FAS Russia No. 2 of 13.03.2019)⁶

The guidelines was prepared by the FAS Russia based on the results of the study and generalization of the practice of application of the antimonopoly legislation by the antimonopoly authorities when establishing the facts of the conclusion of anticompetitive agreements by economic entities.

2) Guidelines of the FAS Russia No. 17 "On certain issues in the analysis of the state of competition" (approved by the minutes of the Presidium of the FAS Russia No. 3 dated 10.04.2019)⁷;

The guidelines was prepared by the FAS Russia for the purpose of uniform application of the antimonopoly legislation when analyzing the state of competition. The document is supplemented to guidelines previously issued by the Presidium of the FAS Russia on the application of antimonopoly legislation, taking into account the obligation to analyze the state of competition when considering cases of violation of antimonopoly legislation and should be applied in conjunction with such guidelines.

3) Guidelines of the FAS Russia No. 18 "On the powers of the employees of the antimonopoly authorities during inspections of compliance with the requirements of

⁵ https://fas.gov.ru/documents/type_of_documents/presidium_clarifications (Russian version only)

⁶ https://fas.gov.ru/documents/type_of_documents/presidium_clarifications (Russian version only)

⁷ <https://fas.gov.ru/documents/685047> (Russian version only)

the antimonopoly legislation of the Russian Federation, consideration of applications and materials on violation of the antimonopoly legislation of the Russian Federation and consideration of cases of violation of the antimonopoly legislation of the Russian Federation” (approved by the minutes of the Presidium of the FAS Russia from 11.10.2019 No. 8)⁸.

The guidelines has been prepared by the Presidium of the FAS Russia with the aim of increasing the efficiency of the antimonopoly authorities and clarification of its powers.

Also, in order to form a uniform approach to the consideration of cases of violation of the antimonopoly legislation of the FAS Russia in 2019, review of the practice of application of antimonopoly legislation by the collegial bodies of the FAS Russia was prepared (for the period from 01.07.2018 to 01.07.2019), approved by the minutes of the Presidium of the FAS Russia dated 30.10.2019 No. 9⁹.

The Review presents the main legal positions regarding the uniformity of application of the provisions of the antimonopoly legislation, which were made by the collegial bodies of the FAS Russia (the Presidium of the FAS Russia) during the examination and revision in 2018-2019 by way of intradepartmental appeal of decisions and (or) instructions of the regional antimonopoly bodies regarding the practice of applying the antimonopoly legislation in the following categories of cases:

- when establishing the facts of abuse of a dominant position;
- when establishing anti-competitive agreements;
- when establishing violations by the governmental authorities;
- when establishing an act of unfair competition;
- upon establishing violations of the Law on Trade.

The formation of uniform approaches to key issues of law enforcement excludes disputes between the regional offices of the FAS Russia when making decisions and makes the mechanism of antimonopoly regulation more transparent and predictable for all participants in economic relations.

1.2.2. Recommendations on practices in the use of information technology in trade, including those related to the use of price algorithms¹⁰

Recommendations of the Expert Council under the FAS Russia on the development of competition in the field of information technology and the Expert Council of the FAS Russia on the development of competition in the retail trade¹¹ prepared to ensure

⁸ https://fas.gov.ru/documents/type_of_documents/presidium_clarifications (Russian version only)

⁹ <https://fas.gov.ru/documents/685926> (Russian version only)

¹⁰ <https://fas.gov.ru/documents/684828> (Russian version only)

¹¹ <https://fas.gov.ru/councils/ekspertnyij-sovet-po-razvitiyu-konkurenczii-v-sfere-rozничnoj-torgovli> (Russian version only)

uniformity in the application of the antimonopoly legislation in relation to the organization of the sale of non-food products (such as computers, household appliances and electronics) via the information and telecommunications network Internet or using technological solutions based on data available on the information and telecommunications network Internet.

The recommendations relate to the use of modern technologies, including price algorithms, by companies selling non-food products. In particular, the Recommendations define acceptable and unacceptable practices from the point of view of antimonopoly legislation related to the use of such technologies and algorithms.

The main idea of the Recommendations is that the use of information technologies (whether it is the use of price algorithms, parsing of competitors' sites, the analysis of aggregator data or the use of other methods of collecting and analyzing information about competitors) is in itself acceptable. Such technologies can be used, in particular, to determine their own pricing policy, planning, forecasting demand and determining measures to support it.

However, they should not mediate the implementation of actions that violate the prohibitions established by the Law on Protection of Competition. Thus, the assessment is primarily subject to the method and purpose of using the relevant information technology.

Companies have the right to share information with the results of price monitoring both within their organization and among their counterparties. Relevant communications may include advice on pricing policy (for example, setting a maximum resale price) or organizing the sale of goods (for example, requirements for the design of retail facilities in accordance with marketing standards).

As noted above, the Recommendations contain the general idea that information technology can serve as a tool for the implementation of practices prohibited by antimonopoly legislation.

The Guidelines provide three examples, but this list is not exhaustive:

- Establishing and monitoring compliance with minimum or fixed retail prices (including through automated notifications of violations of the established price level);
- Coordination by the manufacturer of third parties in order to maintain a fixed or minimum price level;
- Prohibiting the establishment of discounts on the retail price of goods or limiting the maximum amount of discounts on the retail price.

Depending on whether there is a "vertical" agreement between the parties or not, such practices can be qualified as a violation of the established prohibitions for "vertical" agreements or illegal coordination.

It should be noted that at the moment the government approval is awaiting a draft law initiated by the FAS Russia on amending the Code of Administrative Offences of the Russian Federation. The draft law introduces a new aggravating circumstance - the commission of an offense using a price algorithm, which is defined as a computer program designed to calculate and negotiate prices.

1.2.3. Financial Markets

1.2.3.1. Recommendations for the disclosure of information on the amount of remuneration charged to the consumer when providing services using ATMs and payment terminals¹²

FAS Russia continued its joint work with the Bank of Russia to advocate competition and prevent violations of antimonopoly legislation, including by developing the institution of joint letters.

Thus, together with the Bank of Russia, a standard has been developed for disclosing information on the amount of remuneration charged to the consumer when providing services using ATMs and payment terminals. The document was approved by a joint letter of the FAS Russia and the Bank of Russia and applies to organizations providing payment services (credit institutions, bank payment agents, bank payment subagents, payment agents when they provide appropriate services to consumers using ATMs and (or) payment terminals).

The basis for the preparation of the recommendations was the receipt of information by the antimonopoly authorities that in a number of cases individual economic entities are trying to gain advantages in providing payment services to citizens using payment terminals/ATMs, providing inaccurate or distorted information about the conditions of services provided.

Thus, individual market participants present on the display of a payment terminal/ATM information on the commission charged for the performance of the corresponding operations in a form that is extremely inaccessible to normal perception, using in combination the following psychological tricks:

- present on the display of the terminal information about the availability of the commission and its size only after pressing additional buttons;
- use an unobtrusive color scheme of such buttons (for example, gray and white on a white background of the terminal screen);
- provide an opportunity to get information about all the sizes of commissions, depending on the amount of the payment, only in several stages by clicking several similar buttons;

¹² <http://en.fas.gov.ru/press-center/news/detail.html?id=53928>

- provide information on the size of the commission in one list in different terms - in rubles and percent. Depending on the amount of the payment, in a lesser case, indicating the amount in rubles (for example, the commission for replenishment from 100 to 500 rubles will be 25 rubles, and for replenishment over 500 to 5000 it will be 25%). Since these conditions are on the same list, the consumer may not properly perceive the difference in the final amount of the commission.

Thus, the developed recommendations are aimed at excluding the use of such non-competitive methods of delivering information to consumers.

For example, attention in these recommendations is focused on the need to disclose to the consumer reliable and complete information about the conditions for the provision of services, including the amount of fees charged, before the consumer starts depositing cash into the ATM/payment terminal.

In addition, according to the document, before the consumer starts depositing money, he/she should also be made aware of the full information about the possibility or impossibility of refunding the cash deposited in the ATM/payment terminal (in case of refusal to perform the operation or refund of the excessive amount of money funds).

1.2.3.2. Recommendations on the formation of a package of best practices for the development of competition in the financial market of the subjects of the Russian Federation¹³

With the participation of the Central Bank of the Russian Federation, a public report of the Federal Antimonopoly Service "Recommendations on the formation of a package of best practices for the development of competition in the financial market of the subjects of the Russian Federation" was prepared.

This report contains recommendations on measures, the implementation of which may lead to the development of competition in the financial market, taking into account the fundamental principles of state policy for the development of competition determined by the Decree of the President of the Russian Federation dated December 21, 2017 No. 618 "On the main directions of state policy for the development of competition".

In particular, such measures are aimed at creating a competitive mechanism for admitting financial organizations to concessional financing (subsidizing) programs, as well as credit organizations to attract funds from the budgets of the subjects of the Russian Federation; prevention of abuse of state participation in the promotion of financial services; stimulation of competition in the payment of wages, pension and other payments to citizens; proper informing of the consumer about financial services related to payment for housing and communal services; carrying out explanatory work regarding the right to choose the consumer.

¹³ <http://en.fas.gov.ru/press-center/news/detail.html?id=54704>

The materials of the report, according to the FAS Russia, should create the prerequisites not only for the creation and dissemination of positive practices in the regions for the development of competition in financial markets, but also to provide more complete awareness of the executive authorities of the subjects of the Russian Federation about the current work in this direction of the federal center's activity.

1.2.4. Inter-agency Cartel Program

As part of the execution of the Order of the President of the Russian Federation in order to create an effective uniform practice to combat cartels, the Order of the Government of the Russian Federation of June 17, 2019 No. 1314-r approved an inter-agency program of measures to identify and combat cartels and other agreements restricting competition for 2019-2023, which is designed to consolidate the efforts and resources of the authorities to defend the national interests of the Russian Federation and create a unified practice to prevent collusion and anti-competitive agreements¹⁴.

The program of measures includes the improvement of the legislation of the Russian Federation, the identification and elimination of the reasons contributing to the cartelization of the economy while combining the efforts of all state and law enforcement agencies.

In addition, the program assumes additional professional training for employees to identify and combat anti-competitive agreements and study international experience.

1.2.5. New edition of the Standard for the development of competition in the subjects of the Russian Federation

With the active participation of the FAS Russia, a new version of the Standard for the development of competition in the subjects of the Russian Federation was developed, which was approved by the Order of the Government of the Russian Federation dated April 17, 2019 No. 768-r (hereinafter – the Standard)¹⁵.

The standard provides for the formation in the Russian subjects of lists of key indicators of the development of competition, reflecting the share of privately owned organizations in the sectors (spheres) of the economy of the Russian Federation.

FAS Russia, in accordance with paragraph 3 of the said Order of the Government of the Russian Federation, in order to bring it in line with the new edition of the standard, in agreement with the interested federal executive authorities, updated the methodology for calculating key indicators of competition development in the regions (Order of the FAS Russia dated 06.08.2019 No. 1059/19). When developing the methods, the comments and suggestions received from the executive authorities of the subjects of the Russian Federation were also taken into account.

¹⁴ <http://en.fas.gov.ru/press-center/news/detail.html?id=54172>

¹⁵ <http://en.fas.gov.ru/press-center/news/detail.html?id=53995>

1.2.6. Strengthening procurement control within the framework of the revision of national projects

In order to strengthen control over purchases carried out as part of the implementation of national projects, the FAS Russia sent an order to the regional offices of 13.06.2019 No. ME/49839-PR/19 to strengthen control over compliance with the legislation of the Russian Federation on the contractual system in the field of procurement and procurement of goods, works, services by certain types of legal entities and on the need for each regional office to conduct at least five such unscheduled inspections on a monthly basis for purchases carried out within the framework of the implementation of national projects.

Also, the FAS Russia issued an order dated July 18, 2019 No. 968/19 "On monitoring and control of the effectiveness of national and federal projects by the antimonopoly authorities", which was sent to the regional antimonopoly authorities for execution.

1.2.7. The new version of the Strategy for the Development of Competition and Antimonopoly Regulation in the Russian Federation for the Period up to 2030

By the Minutes of the Presidium of the FAS Russia dated 03.07.2019 No. 6, the Strategy for the Development of Competition and Antimonopoly Regulation in the Russian Federation for the period up to 2030 was approved.

The approved Strategy includes a list of tasks and activities aimed, in particular, at improving the legal and organizational mechanisms for protecting competition, creating effective mechanisms for developing competition at the federal, regional and local levels, improving antimonopoly regulation in the context of the development of the digital economy, creating effective mechanisms for tariff regulation, conditions for effective competition in procurement for state (municipal), corporate needs, increasing the efficiency of control in the field of state defense orders.

1.3. Government proposals for new legislation

1.3.1. National Competition Development Plan for 2021-2025

In 2019, the FAS Russia, together with the federal executive authorities, developed a draft National Competition Development Plan for 2021-2025¹⁶.

The draft National Plan provides for the deregulation of natural monopolies, the involvement of state and municipal property in the economic turnover, and the expansion of the development of exchange trade. The goal of the new National Plan should be the transition from quantitative indicators of development of competition to qualitative ones. Also, one of the main goals for the next 5 years is the digitalization of antimonopoly regulation.

¹⁶ <https://en.fas.gov.ru/press-center/news/detail.html?id=54561>

The priority sectors for the development of competition in the draft National Plan are health care, agro-industrial complex, financial markets, road construction, science and education, information technology, telecommunications, housing and communal services, electric power industry, natural resources, transport.

An interdepartmental working group was also created on the implementation of the provisions of the Competition Development Standard in the subjects of the Russian Federation¹⁷, which includes representatives of the Russian Ministry of Economic Development, the FAS Russia, the Central Bank of the Russian Federation.

Four meetings of the working group were held, at which the participants considered the issues of assessing the regions by the level of promoting competition in the subjects of the Russian Federation at the end of 2018, aspects of preparing the Monitoring Methodology for assessing the state and development of competition in the commodity markets of the subjects of the Russian Federation. Based on the results, guidelines on the issues of the regions on the implementation of the Standard were prepared (more than 50 issues were considered).

1.3.2. "Fifth antimonopoly package" of amendments to the antimonopoly legislation

Modern antimonopoly regulation should take into account the specifics of the digital economy to protect and develop competition. In this regard, the FAS Russia developed a draft law on the digital economy and antimonopoly regulation in digital markets - the so-called "fifth antimonopoly package"¹⁸.

The draft law defines new concepts, including "network effects", in the presence of which an economic entity can be recognized as dominant with a market share of more than 35%, as well as a "price algorithm" that uses price monitoring in the interests of a particular company. Digital platforms will be required to provide non-discriminatory access to consumer data.

Also, the "fifth package" introduces new approaches to controlling economic concentration. In particular, a new criterion for preliminary approval of transactions is being introduced - its volume should exceed 7 billion rubles. If this is a cross-border transaction, then with the consent of the Government of the Russian Federation, FAS Russia may extend its consideration for a longer period. In addition, there will be an opportunity for face-to-face consideration of applications with the participation of interested parties, and the procedure for conducting an examination during their consideration will be determined.

1.3.3. Countering cartels and other anti-competitive agreements

¹⁷ Order of the Government of the Russian Federation dated April 17, 2019, No. 768-p

¹⁸ <http://en.fas.gov.ru/documents/documentdetails.html?id=15345>

At the level of legislative regulation of countering cartels and other anti-competitive agreements, the FAS Russia has developed draft federal laws, which are currently submitted to the State Duma of the Federal Assembly of the Russian Federation and are at the stage of preliminary consideration:

- Draft Federal Law No. 848246-7 “On Amendments to the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation”. The changes will affect the wording of Article 178 of the Criminal Code of the Russian Federation (restriction of competition) in terms of toughening criminal liability for agreements restricting competition, as well as the introduction of alternative jurisdiction under this article for investigators of the Investigative Committee of the Russian Federation and the Ministry of Internal Affairs of Russia;
- Draft Federal Law No. 848392-7 “On Amendments to the Federal Law “On Protection of Competition” and Certain Legislative Acts of the Russian Federation” in terms of increasing the efficiency of identifying and suppressing agreements restricting competition and concerted actions. The draft law provides for the introduction of new provisions providing for:
 - the right of the antimonopoly body to seize (confiscate) documents and receive explanations;
 - the right of the antimonopoly body to receive the results of operational and search activities from law enforcement agencies;
 - the right to provide experts with case materials containing secrets protected by law;
 - maintaining a register of participants in agreements restricting competition;
 - the procedure for concluding an agreement on cooperation between the antimonopoly body and an economic entity, filed in order to mitigate liability or release from liability for the conclusion of an agreement restricting competition by it or for the implementation of concerted actions restricting competition.
- Draft Federal Law No. 848369-7 "On Amendments to the Code of Administrative Offenses of the Russian Federation" (on issues of administrative liability in the event of an anti-competitive agreement). Paragraphs 1, 5, 7 of the note to article 14.32 of the Code of Administrative Offenses of the Russian Federation are set out in a new edition. A new article 19.4 has been developed, which provides for liability for obstructing the legal activities of an official of the federal antimonopoly body, its regional offices for conducting inspections of compliance with the requirement to prohibit the conclusion of an agreement that is inadmissible in accordance with the antimonopoly legislation of the Russian Federation.

In accordance with paragraph 3 of Section I of the list of measures of the Interdepartmental Program of Measures to Detect and Combat Cartels and Other Agreements Restricting Competition for 2019-2023, a draft federal law "On Amendments to the Code of Administrative Offenses of the Russian Federation" was developed (in terms of reducing the amount of administrative fines). It is proposed to supplement Article 32.2 of the Code with Part 1.3 in terms of reducing the amount of administrative fines for persons recognized as participants in agreements restricting competition and willing to voluntarily pay the fine no later than twenty days from the date of the decision to impose an administrative fine.

1.3.4. The Federal Law "On the basis of state regulation of prices (tariffs)"

The work on the draft Federal Law was organized by the FAS Russia in accordance with the Decree of the President of the Russian Federation of April 26, 2017 No. PR-818.

The FAS Russia has developed a draft law "On the basics of state regulation of prices (tariffs)", which provides for the unification and systematization of legislation in regulated areas by forming common methods and principles, approving a single procedure for making tariff decisions, approving investment programs, interaction between the federal and regional authorities, and establishing a single procedure for resolving disputes at the federal level on regional tariffs.

The draft law is aimed at improving the system of state regulation of prices (tariffs), including prices (tariffs) for services of natural monopolies, defines the legal, economic and organizational bases of state regulation of prices (tariffs) (defines common key concepts used in the field of state regulation of prices (tariffs), goals, forms and methods of state regulation of prices (tariffs), contains the main requirements for calculating the necessary gross revenue of regulated entities, the main provisions on investment activities of regulated entities, the procedure for setting regulated prices (tariffs) and the procedure for considering cases on violation of legislation in the field of state regulation of prices (tariffs).

In accordance with the Decree of the President of the Russian Federation of December 21, 2017 No. 618, the Government of the Russian Federation is instructed to ensure the adoption of a Federal Law defining the basis for state regulation of prices (tariffs) using comparable markets and a long-term (at least five years) period of regulation as a priority method and securing the rights of the Consumer Council to exercise public control when making decisions on tariffs, as well as when approving investment programs and monitoring their implementation.

The draft law was developed by the FAS Russia and submitted to the Government of the Russian Federation on July 31, 2018.

Based on the results of several meetings in the Government of the Russian Federation, the draft law was finalized by the FAS Russia together with the Ministry of Economic Development of the Russian Federation and sent to the Government of the Russian Federation on January 22, 2019.

Currently the FAS Russia together with the Ministry of Economic Development of the Russian Federation is working on the comments submitted by federal executive authorities and organizations to the draft law.

1.3.5. Other proposed legislative changes

The most significant planned changes to Russian competition legislation include:

1) extension of the prohibitions contained in the antimonopoly legislation of the Russian Federation to actions (inaction) and agreements using exclusive rights to the intellectual property;

2) determination of the legal and organizational foundations of state regulation of auctions, the obligation of which is provided for by legislation, control over their organization and conduct, including the adoption of uniform rules for conducting organized auctions, posting information about such auctions in the unified state information system in the information and telecommunications network "Internet" (with the exception of cases related to ensuring the defense and security of the state); ensuring the conduct of these auctions in the form of electronic auctions with the involvement of operators of electronic platforms operating in accordance with the legislation on the contract system, with the exception of cases provided for by acts of the President of the Russian Federation and the Government of the Russian Federation;

3) reforming the legislation on the contractual system in the field of procurement of goods, works, services to meet state and municipal needs in order to increase the openness and transparency of procurement for small and medium-sized businesses, ensure the principle of protection of competition, as well as respect the rights and legitimate interests as participants in procurement and customers, including taking into account the use of exchange and over-the-counter price indicators for exchange commodities;

4) legal regulation of the formation of a unified base of intellectual property data for the purpose of its replication and use, created at the expense of budgetary funds, the rights to which belong to state or municipal customers, with the placement of information on such rights in the information and telecommunication network "Internet" (with the introduction of a special order aimed at ensuring the defense and security of the state), and issues of rights and obligations to use such intellectual property for state and municipal needs;

5) reforming the legal regulation of the procedure for granting state and municipal preferences, including those aimed at unifying and systematizing state and municipal preferences;

6) the establishment of administrative responsibility for officials that fail to fulfill the obligation to take inventory and put state or municipal property into economic circulation;

7) the introduction of a ban on the use of discriminatory approaches in the tariffication of services for maintaining bank accounts of legal entities and individual entrepreneurs.

Among other things, the following draft laws have been developed, which are undergoing interagency approval procedures:

1. Draft federal law "On Amendments to the Federal Law "On Protection of Competition" and Certain Legislative Acts of the Russian Federation (*regarding the provision of information constituting banking and tax secrets to antimonopoly authorities*)". It was proposed to provide the antimonopoly body with the right to receive information constituting tax and banking secrets, to submit to the antimonopoly body information about connections between subscribers and (or) users of communication services.

2. Draft federal law "On Amendments to the Tax Code of the Russian Federation (*in terms of providing antimonopoly authorities with information constituting tax secrets*)".

3. Draft federal law "On Amendments to the Federal Law "On Protection of Competition" and Certain Legal Acts of the Russian Federation (*in terms of providing the antimonopoly authorities with information constituting a secret of communication*)". The draft law provides for the granting of the antimonopoly body the right to obtain information constituting a secret of communication, necessary to fulfill the tasks assigned to the antimonopoly body, when conducting inspections of compliance with the requirements of Articles 11, 16 and (or) paragraph 1 of Part 1 of Article 17 of the Federal Law of July 26, 2006 No. 135-FZ "On Protection of Competition", as well as when considering cases of violation of antimonopoly legislation, initiated on grounds of violation of the above articles.

Part 2. Enforcement of competition law and policy

Here and throughout part two of the present report, statistics are given which include the central office of the FAS Russia and 84 FAS Regional Offices in the subjects of the Russian Federation.

In 2019, the FAS Russia received 48,244 applications on violation of the Law on

Protection of Competition, of which 32 103 applications concerned monopolistic activities (29 291 – abuse of dominant position and 2 812 – agreements or concerted actions), 5 112 – unfair competition, 6 852 – competition restrictions by public authorities, 4 160 – antimonopoly requirements to tenders and peculiarities of selection of financial organizations, 16 – granting of state or municipal preferences, 1-state control over economic concentration, 0 – responsibility for violation of the antimonopoly legislation.

The number of cases in question in 2019 continued to decline due to the course on combating the unfair practices of large Russian and transnational corporations that have a significant impact on the Russian economy, the successful implementation of the institute of warnings, antimonopoly compliance system and efficiency in courts (the FAS Russia wins about 90% of cases).

In 2019, the FAS Russia initiated 3029 cases. (In 2018 3223 cases were initiated, in 2017 – 3534 cases, in 2016 – 4040 cases.) 2236 decisions were made on the existence of a violation. 1083 of them were appealed to the court (48,4%). 129 of the total amount of the FAS' decisions were declared invalid by the court (11,9% of the number of appeals, 5,8% of the number accepted).

The number of cases initiated under the abuse of dominant position in 2019 was 630 (in 2018 – 685, in 2017 – 847, in 2016 – 1340).

The number of cases initiated under the prohibition of restrictive agreements and concerted actions by economic entities amounted to 492 in 2019 (435 in 2018, 420 in 2017, 360 in 2016).

Under the provisions of the Law on Protection of Competition on unfair competition, the FAS Russia initiated 427 cases in 2019 (in 2018 – 517, in 2017 – 409, in 2016 – 453).

The number of cases of violation of the antimonopoly legislation by the authorities in 2019 was 698 (in 2018 – 736, in 2017 – 770, in 2016 – 736).

2.1. Actions against agreements and concerted actions

2.1.1. Summary of activities of competition authorities and courts

In 2019, the FAS Russia received 2 812 applications on agreements (concerted actions) of economic entities restricting competition (2001 in 2018, 1757 in 2017, 1390 in 2016). 492 cases were initiated (435 in 2018, 420 in 2017, 360 in 2016), decisions were issued on the recognition of the violation in 421 cases (378 in 2018, 329 in 2017, 284 in 2016), 518 rulings were issued (480 in 2018, 472 in 2017, 378 in 2016). 91 decisions have been appealed to the court (73 in 2018, 75 in 2017, 64 in 2016), 13 of them have been found to be legal (10 in 2018, 4 in 2017, 8 in 2016), 1 decisions have been declared invalid (0 in 2018, 3 in 2017, 2 in 2016), the rest are in the stage of judicial appeal.

In 2019, the FAS Russia received 147 applications under the leniency program (97 in 2018, 118 in 2017, 91 in 2016).

2.1.2. Description of significant cases

Coordination of the economic activities of smartphone and tablets resellers

According to the Part 5 of the Article 11 of the Law on Protection on Competition, the FAS Russia found Samsung Electronics Rus Company LLC guilty of illegal coordination of economic activities of Samsung smartphones and tablets resellers which was carried out using special software that involves regular collection of price data and led to the establishment and maintenance of prices for smartphones and tablets sold at retail using retail facilities¹⁹.

In addition, employees of Samsung Electronics Rus Company LLC who directly committed actions for prohibited coordination, namely brought to the attention of resellers the established retail prices in writing and orally, were brought to administrative responsibility. Compliance with these prices was ensured by applying "sanctions" by Samsung Electronics Rus Company LLC to resellers who violated the legislation.

Based on the results of the consideration of the case of Samsung Electronics Rus Company LLC, a remedy to eliminate the violation of the antimonopoly legislation was not issued to Samsung Electronics Rus Company LLC due to the termination of the illegal coordination of the economic activities of Samsung smartphones and tablets resellers, sold at retail using trade facilities and development compliance policy in the company.

Coordination of activity leading to the maintenance of bid prices

Effective implementation of oversight functions in the healthcare sector is one of the priorities of the FAS Russia. Cartels in the field of health care and providing the population with medicines are the most painful for both the budget and the population. The state constantly allocates additional funds for the social sphere, which instead of its development go to cartel participants and budget money is wasted instead of saving it due to anti-competitive agreements with the bidder. Cartel members do not care about the quality of the purchased products. As a result, all this has an extremely negative effect on the state of the industry and the level of services provided to citizens.

Based on the results of unscheduled inspections conducted the FAS Russia jointly with the Federal Security Service of the Russian Federation in the Dagestan Republic, a case

¹⁹ The FAS Russia Decision, case No. 1-11-11/00-22-19 of May 7, 2019 <https://br.fas.gov.ru/ca/upravlenie-po-borbe-s-kartelyami/18354d31-65c5-4e6f-8879-42138e2cfa7e/> (Russian version only)

was brought against the Ministry of Healthcare of the Dagestan Republic, "Regionapharm" LLC, "Globalmedtekh" LLC, "Dagmedtekhnikha" LLC, "Medpharmsnab" LLC²⁰.

It should be noted that these inspections became a vivid example of one of the most effective forms of interaction between antimonopoly and law enforcement authorities – the joint activities of these authorities to identify, investigate and suppress cartels. In this case, the coordination of the authorities' actions was carried out by the Prosecutor's Office of the Dagestan Republic.

Simultaneously with the initiation of a case on violation of antimonopoly legislation (Paragraph 2 of the Part 1 of the Article 11 of the Law on Protection of Competition), the Investigative Department of the Ministry of Internal Affairs of the Dagestan Republic initiated a criminal case under the Sub-paragraph "a" of the Part 2 of the Article 178 of the Criminal code of the Russian Federation.

Based on the results of the case consideration, a decision established that "Regionfarma" LLC, "Globalmedtech" LLC, "Dagmedtechnika" LLC, "Medfarmasnab" LLC concluded and implemented an oral anti-competitive agreement (cartel), which led to the maintenance of prices at auctions for the right to conclude state (municipal) contracts for the supply of medicines, medical devices, the provision of services for technical, service and repair of medical devices, installation work, commissioning of delivered medical devices for medical organizations of the Dagestan Republic, the Federal Security Service Directorate of the Russian Federation on the Dagestan Republic and the Ministry of Healthcare of the Dagestan Republic in the period from 2015 to 2018.

At the same time, the FAS Russia found that these economic entities also concluded and implemented oral anti-competitive agreements with two customers – the Ministry of Healthcare of the Dagestan Republic and the "Republican Oncology Clinic" State Budgetary Establishment of the Dagestan Republic.

This case was the largest in terms of the number of auctions at which anti-competitive agreements were implemented. Thus, according to the decision of the FAS Russia, the anti-competitive agreements of the Ministry of Healthcare of the Dagestan Republic, "Republican Oncology Clinic" State Budgetary Establishment of the Dagestan Republic, "Regionapharm" LLC, "Globalmedtekh" LLC, "Dagmedtekhnikha" LLC, "Medpharmsnab" LLC led to the maintenance of prices during 1010 procurement procedures in 2015-2018. According to the competition authority, the total income of the cartel participants amounted to more than 2 billion rubles²¹.

²⁰ The FAS Russia Decision, case No. 1-11-113/00-22-18 of February 15, 2019 <https://br.fas.gov.ru/ca/upravlenie-po-borbe-s-kartelyami/7ae9b429-c726-4623-80f8-72526a301d54/> (Russian version only)

²¹ <http://en.fas.gov.ru/press-center/news/detail.html?id=53757>

The decision of the FAS Russia in this case was fully supported by the courts of three instances.

Cartel members were held administratively liable in the form of fines totaling more than 116 million rubles.

2.2. Actions against abuses of dominant positions

2.2.1. Summary of activities of competition authorities and courts

In 2019, the FAS Russia received 29 291 applications related to the abuse of market power: 630 cases were initiated (685 in 2018, 847 in 2017, 1340 in 2016), of which 231 were terminated due to non-confirmation of the fact of violation. In consideration of the remaining cases, 399 decisions recognized the violation (453 in 2018, 516 in 2017, 713 in 2016), 249 rulings were issued (310 in 2018, 330 in 2017, 490 in 2016). 110 decisions were appealed in court (229 in 2018, 234 in 2017, 316 in 2016). The court adjudicated that 15 decisions were lawful (36 in 2018, 42 in 2017, 99 in 2016) and nullified 1 decision (4 in 2018, 8 in 2017, 6 in 2016); the rest are in the stage of judicial review.

2.2.2. Description of significant cases

Restriction of entry into a goods market

In 2019, the FAS Russia considered a case of violation of the antimonopoly legislation in relation to Headhunter LLC. This company owns and operates the largest online platform in the Russian Federation for job search and job candidates – hh.ru.

The FAS Russia received a statement from Stafori LLC, the rights holder of the software for automated recruitment – the clients of this company faced a problem when working with hh.ru.

Headhunter LLC referring to its user agreement began to block the work of these clients with the site hh.ru, since they used the software of Stafori LLC while working with hh.ru and offered them to switch to the software of their own development.

The FAS Russia conducted an analysis of the state of competition in the commodity market for providing information interaction between applicants, employers and recruitment agencies in the information and telecommunications network "Internet", which established that Headhunter LLC (service hh.ru), SuperJob LLC (service superjob.ru), RDV-Soft LLC (service rabota.ru) have a collective dominant position on it. The product in such a market is a database and interaction with the database at the software level is a condition for market access.

The FAS Russia found that the user agreements of the platforms hh.ru, superjob.ru, rabota.ru contain provisions prohibiting users of these platforms (including employers who paid for access to the platforms) from using third-party software when working

with the platforms without confirming that such third-party software affects and violates the operation of the relevant platform. In addition, it was found that the platform hh.ru blocked users (employers) for using third-party software for automated recruitment and offered users to switch to their own software products hh.ru similar functionality. Based on the identified features, the FAS Russia initiated cases of violation of the antimonopoly legislation.

Having considered the above case against Headhunter LLC (hh.ru), Superjob LLC (superjob.ru) and RDV-Soft LLC (rabota.ru), the FAS Russia concluded that user agreements of Superjob LLC (superjob.ru), RDV-Soft LLC (rabota.ru) have a section devoted to the interaction of third-party software with the databases of these platforms through the API and in fact such interaction occurs in the specified way. Also, the named platforms themselves did not block their users (employers) for using third-party software with databases. Taking into account these facts, the FAS Russia came to the conclusion that the actions of Superjob LLC (superjob.ru) and RDV-Soft LLC (rabota.ru) did not violate antimonopoly legislation.

However, in relation to Headhunter LLC (hh.ru) the Federal Antimonopoly service of Russia found that the specified platform restricted interaction via the API for a third-party service and blocked users (employers) of this service for using it when working with hh.ru, suggested switching to a service with similar functionality developed by hh.ru. These circumstances served as an obstacle to access to the commodity market of services for ensuring information interaction of applicants, employers and recruitment agencies in the information and telecommunications network "Internet" for the third-party software developer for automated recruitment.

Because of consideration of this case Headhunter LLC was found to have violated the Paragraph 9 of the Part 1 of the Article 10 of the Law on Protection of Competition by creating obstacles to access to the commodity market. Headhunter LLC issued a remedy²².

Consideration of this case allowed the FAS Russia to develop a position on the formation of market power of the digital platform through the formation and disposal of data in the market with significant network effects, as well as a position on reasonable and non-discriminatory requirements for access to the database of the dominant entity that ensure the protection of personal data.

2.3. Mergers and acquisitions

2.3.1. Summary of activities

In 2019, the FAS Russia considered 1,052 pre-merger notifications and 144 post-merger notifications of economic entities (1086/189 in 2018, 1103/128 in 2017 and

²² <https://br.fas.gov.ru/ca/upravlenie-regulirovaniya-svyazi-i-informatsionnyh-tehnologiy/8e4961ce-3f9c-4b37-9f4b-b2804deec88/> (Russian version only)

1379/83 in 2016) of which 1,156 pre-merger and post-merger notifications were satisfied (1245 in 2018, 1209 in 2017, 1441 in 2016), including 99 with the issuance of rulings (67 in 2018, 30 in 2017, 39 in 2016). 254 applications filed during the period under consideration were transferred to Phase II of the review (171 in 2018, 144 in 2017, 100 in 2016). At the same time, the competition authority refused to approve 40 transactions (30 in 2018, 22 in 2017, 21 in 2016).

2.3.2. Description of significant cases

Bristol-Myers Squibb/Celgene Logistics Sarl

FAS Russia approved the acquisition by Bristol-Myers Squibb Company of the rights to determine the terms of business for Celgene Logistics Sarl LLC, which was carried out as part of a global transaction.

The purpose of the transaction was to create an innovative pharmaceutical company that can meet the needs of patients with cancer, inflammatory diseases, diseases of the immune and cardiovascular systems, by developing cost-effective innovative medicines and applying the existing significant scientific potential. The parties expected that the combined efforts to develop and manufacture medicines in development would lead to significant business development for the combined company and new opportunities for patients with a number of serious diseases.

As part of the state control over economic concentration, it was found that a group of persons of the corporation Bristol-Myers Squibb Company and Celgene Logistics Sarl LLC produce and sell medicines with different INN and accordingly there are no intersections in the production and sale of medicines within the same INN. Thus, the corporation Bristol-Myers Squibb Company, acquiring the rights to determine the business conditions of the Celgene Logistics Sarl LLC, expanded its line of medicines.

In addition, the Competition authority found that there are no analogues of medicines corresponding to the INN "Azacitidine", "Pomalidomide", "Paclitaxel+ [Albumin]" and "Apremilast" on the territory of the Russian Federation, the only supplier of which is the Celgene Logistics Sarl LLC.

The Competition authority has established the presence of several medicines registered on the territory of the Russian Federation including those of domestic production in relation to medicines with the "Lenalidomide" INN. However, the FAS Russia had information that "Celgene International Holdings Corporation" has intellectual property for a medicine with the INN "Lenalidomide" and accordingly until the expiration of the patent participation in the procurement of manufacturers of other medicines with the INN "Lenalidomide" is not possible.

After reviewing the materials of the application, as well as analyzing the commodity markets in which the acquired company operates, the Competition authority established its dominant position in the commodity markets of medicines

corresponding to the INN "Azacitidine", "Pomalidomide", "Paclitaxel+ [Albumin]", "Apremilast" and "Lenalidomide".

Considering that as a result of the announced transaction the corporation Bristol-Myers Squibb Company will be able to determine the general business conditions of the Celgene Logistics Sarl LLC, as well as the general conditions for the circulation of medicines corresponding to the INN "Azacitidine", "Pomalidomide", "Paclitaxel+ [Albumin]", "Apremilast" and "Lenalidomide" in the relevant commodity markets, then in the opinion of the Competition authority such a transaction on the territory of the Russian Federation may lead to negative consequences.

In order to avoid negative impact on the state of competition in the named product markets, the Competition authority decided to issue a general remedy to Bristol-Myers Squibb Corporation. In particular, Bristol-Myers Squibb Corporation should ensure that Celgene Logistics Sarl LLC (or any company that is part of its group of persons) fulfills all concluded contracts (agreements) for the supply of the above-mentioned medicines; develop a document regulating the interaction of the seller of medicines with contractors; do not carry out economically and technologically unjustified reduction or termination of sales of medicines, if there is still demand for them.

On November 20, 2019, the transaction was completed and the Competition authority was duly notified about it.

In addition, the FAS Russia was notified of the actions taken by Bristol-Myers Squibb Corporation aimed at ensuring competition in the Russian Federation as part of the execution of the order and was also informed that in pursuance of the requirements of the US antimonopoly legislation, Celgene Corporation, which is the parent company of the Celgene international group of companies, had to sell the rights to the medicine "Otesla" (INN Apremilast) to another person in order to obtain approval for the transaction from the FTC. The sale of the rights to the medicine "Otesla" (INN Apremilast) to another person made it impossible for Bristol-Myers Squibb to comply with the instructions of the Russian competition authority and take appropriate actions in the relevant product market. However, Bristol-Myers Squibb Corporation and Celgene Corporation have taken measures to resolve the situation, namely Celgene Logistics Sarl LLC entered into a transitional agreement with the new owner of the medicine "Otesla", during which Celgene Logistics Sarl LLC will continue to comply with existing agreements for the supply of such medicine until these agreements are assigned.

EssilorLuxottica S.A./Lensmaster LLC

An equally important transaction in 2019 was the acquisition by EssilorLuxottica S.A. of the rights allowing to determine the conditions for carrying out business activities of the Lensmaster LLC. This transaction took place through the acquisition by EssilorLuxottika S.A. 76.72% of the shares in GrandVision N.V. (Netherlands). This

transaction was agreed without additional requirements for ensuring competition in the respective product markets.

When making a decision on the results of consideration of the application, the FAS Russia proceeded from the following.

EssilorLuxottica S.A. is a French-Italian vertically integrated transnational corporation that develops ophthalmic (corrective) lenses – from design to production and wholesale (including all stages of this cycle), development, production and distribution of spectacle optics and retail the sale of optics (outside of Russia EssilorLuxottica S.A. operates a retail network, which is complemented by e-commerce platforms based on a foreign website).

Within the framework of antimonopoly control over economic concentration it was established that the company EssilorLuxottica S.A. itself did not carry out activities and did not supply goods (work, services) to the territory of the Russian Federation. However, the group of persons of EssilorLuxottica S.A. includes seven Russian legal entities that operate directly on the Russian commodity market, the corresponding activities of which have been studied by the Competition authority. It has been established that the Russian legal entities that are part of the group of persons of the EssilorLuxottica S.A., mainly operate in the commodity markets of the wholesale of glasses for eyeglasses, contact lenses and storage solutions.

Company "GrandVision N.V." is a Dutch international optics retailer with a focus on providing high quality, affordable eye care to customers around the world. Eye care offered by GrandVision N.V. includes a wide range of services provided by vision experts: prescription glasses, including frames and lenses, contact lenses and contact lens care products, and sunglasses – both simple and prescription lenses. These products are distributed through optics retailers that operate in over 40 countries in Europe, North and South America, the Middle East and Asia. None of the companies from the group of persons of GrandVision N.V. (except Lensmaster LLC) has no direct sales to Russia or branches or representative offices in Russia. At the same time, the Competition authority established that Lensmaster LLC carries out retail trade in medical products (optics, including lenses, glasses for eyeglasses and sunglasses) in specialized stores.

Thus, within the framework of the transaction in question it was established that the EssilorLuxottica S.A. (its group of persons) and Lensmaster LLC (and its group of persons) operate in different commodity markets on the territory of the Russian Federation, which, in the opinion of the Competition authority, practically does not cause harm, and such a transaction can provide additional market efficiency through vertical integration.

STINN LLC/Regional Projects LLC

In December 2019, the FAS Russia approved an application by STINN LLC (main activity – non-specialized wholesale trade) to acquire a 100% share in the authorized capital of Regional Projects LLC (main activity – engineering surveys in construction).

Persons belonging to the same group of persons as STINN LLC carry out activities in the field of outdoor advertising. Thus, the group of persons of STINN LLC includes Advertising Company VERA-OLYMPUS LLC – one of the largest Russian outdoor advertising operators, according to the independent rating of advertising agencies in Russia for 2018-2019 it ranks second. Networks of our own advertising structures of various formats are concentrated in Moscow and the Moscow region. At the moment, the company occupies one of the leading places in Moscow in terms of the number of advertising surfaces.

Also, the group of persons STINN LLC includes the OMIS company, which is one of the largest operators in the field of outdoor advertising and has its own network of outdoor advertising installations located on the busiest highways in Moscow.

LLC STINN also controls 48.5% of the leader in outdoor advertising in Russia – Russ Outdoor.

As a result of the transaction stated in the application, STINN LLC plans to acquire 100% of the shares of Regional Projects LLC, which controls 77% of the voting shares of the authorized capital of LAISA JSC.

Agency LAYSA has been operating in the advertising market since 1994 and specializes in placing advertisements on railway facilities. Since 2006, LAYSA JSC has been the official representative of Russian Railways JSC in the field of advertising and information activities on the entire network of Russian Railways.

LAYSA JSC offers various types of placement in outdoor and transit advertising segments, a number of advertising opportunities at railway stations and suburban stations, implements non-standard advertising projects, and conducts promotions.

Thus, as a result of the transaction, STINN LLC will receive at its disposal 100% of the shares of Regional Projects LLC, therefore it will acquire the rights allowing to determine the conditions for carrying out business activities of LAYSA JSC and its controlled entities.

Thus, STINN LLC, as a result of the implementation of the transaction stated in the application, will strengthen its position in the advertising services market in the field of outdoor advertising.

As a result of consideration of this application, the FAS Russia came to the conclusion that the completion of this transaction would not have a negative impact on the state of

competition in the market for advertising placement services within the territory of the Russian Federation and approved this application.

State Transport Leasing Company/Brunswick Rail

In 2019, the FAS considered the acquisition by the State Transport Leasing Company (company specializes in the leasing of railway and aviation equipment, also leases automobile and road equipment, sea and river vessels) of Brunswick Rail, which is carrying out a similar activity.

Analysis of the state of competition showed that strengthening the dominant position of State Transport Leasing Company in the financial/operating carriage leasing market through the acquisition of private companies could negatively affect the state of competition.

The FAS decided to block the merger and issued remedies with a requirement for the State Transport Leasing Company to pay the strictest attention to the inadmissibility of leasing the carriage rolling to the end consignors through a long chain of intermediaries, the use of which leads to a doubling of prices for provision of carriages for the economy.

In addition, the State Transport Leasing Company, as a development institution, was recommended to use limited budgetary resources for leasing new carriages, adding supply to the network and contributing to reducing the deficit in carrying capacity, and not buying used carriages and private companies on the secondary market.

2.4. Actions against unfair competition

2.4.1. Summary of activities of competition authorities and courts

The total number of applications considered in order to prevent and combat unfair competition (Article 14 "Prohibition of unfair competition" of the Law on Protection of Competition) in 2019 was 5,112 (3687 in 2018, 3466 in 2017, 3623 in 2016). 427 cases were initiated (517 in 2018, 409 in 2017, 453 in 2016). In 253 cases, a decision was made to recognize the violation (381 in 2018, 269 in 2017, 288 in 2016) and 141 rulings were issued (246 in 2018, 169 in 2017, 211 in 2016).

There were 77 appeals against the decisions taken by the FAS Russia in 2019 (77 in 2018, 67 in 2017, 51 in 2016). The court found 21 decisions to be lawful (23 in 2018, 10 in 2017, 13 in 2016), 1 decision partially invalid (0 in 2018, 1 in 2017, 1 in 2016) and the remaining decisions are in the stage of judicial review.

2.4.2 Description of significant cases

Imitation of production

The FAS Russia received an application from Unilever Rus LLC on violation of the Paragraph 2 of the Article 14.6 of the Law on the Protection of Competition²³ on the part of Stockist LLC (hereinafter referred to as the Defendant), related to the introduction into civil circulation in the territory of the Russian Federation of male deodorants in the range under the CARELAX brand, shower gels in the range under the CARELAX brand, toilet cream soap, cream shower gel in assortment under the Delicare brand, toothpastes, mouth rinses under the Tazh Recipes brand that imitate the applicant's products: assortment of men's deodorants, shower gels under the AXE brand, toilet cream-soaps, cream-shower gels "Dove", toothpastes, mouthwash "Lesnoy Balsam".

During the consideration of the case, it was established that the business model of Stockist LLC is the production and sale of various industrial goods of daily mass demand, imitating similar products of the largest international companies that are in the greatest demand in the Russian market and characterized by large-scale advertising promotion.

As a result of the judicial appeal which ended in 2019, the FAS Russia decision dated August 13, 2018 in case on violation of the antimonopoly legislation No. 1-14-47/00-08-17 was recognized as legal and reasonable.

Stockist LLC was brought to administrative responsibility in the form of fines totaling 1 million rubles for unfair competition. The fines by the offender were paid in full.

Misleading the consumer in order to gain an advantage over the competitor

In 2019, the FAS Russia received an application from RSK LLC, indicating the presence of signs of unfair competition in the actions of insurance company RESPECT LLC, expressed in the dissemination of information messages calling for the conclusion of agency agreements with RESPECT LLC and the transfer of clients of specified insurance organization in RESPECT LLC (hereinafter – information messages).

Information messages sent by the employees of RESPECT LLC from e-mail addresses belonging to the company contained a negative assessment of the activities of RSK LLC, which at that time was engaged in civil liability insurance of developers, as well as the activities of PROMINSTRAKH LLC, which was in the process of receiving a part insurance portfolio of RSK LLC and subsequently acquired this portfolio in accordance with the established procedure.

In addition, the disseminated information contained materials related to the supervisory activities of the Bank of Russia.

²³ <http://en.fas.gov.ru/documents/documentdetails.html?id=14737>

Based on such an assessment, RESPECT LLC made a statement in the messages about the forthcoming bankruptcy and deprivation of PROMINSTRAKH LLC of the license to carry out insurance activities, which will also necessitate the need for developers to re-insure the relevant risks. In connection with the above circumstances, RESPECT LLC recommended to conclude contracts of civil liability insurance of the developer with RESPECT LLC.

Due to the fact that such actions of RESPECT LLC could lead to gaining an advantage over competitors in the form of additional clients and losses for competitors in the form of lost profits, the FAS Russia issued a warning about the termination of RESPECT LLC actions containing signs of violations of antimonopoly legislation. A case on violation of antimonopoly legislation was initiated in connection with the failure to comply with this warning.

As a result of the consideration of the case, RESPECT LLC was found to have violated the Article 14.8 of the Law on the Protection of Competition in terms of performing actions by electronic mailing of information messages that contradict the requirements of integrity, reasonableness and fairness, aimed at obtaining benefits, including by attracting/poaching clients of RSK LLC and PROMINSTRAKH LLC, which could cause losses of PROMINSTRAKH LLC in the form of loss of a part of clients by an economic entity and lost profits, and subsequently lead to the impossibility of PROMINSTRAKH LLC activities in the developer's civil liability insurance market due to the refusal of developers to further cooperation with PROMINSTRAKH LLC.

Fundamentally important for the financial markets is the FAS Russia Commission decision that the dissemination of such information messages in relation to competing companies, as well as the transfer of such messages and conclusions to the public plane, including by sending them to agents and clients of competitors, taking into account the specifics of financial markets, can cause panic and outflow of clients from the relevant financial institutions and lead to their termination.

As a result of the consideration of the case, conditions were created for the further formation of law enforcement practice that is significant for the good faith behavior of insurers.

2.5. Actions against public authorities' anticompetitive conduct

2.5.1. Summary of activities of competition authorities and courts

In accordance with Articles 15 and 16 of the Law on Protection of Competition, the FAS Russia is empowered to monitor the actions of public authorities, including anticompetitive acts and actions (inactions) taken by them, as well as agreements restraining competition or concerted actions. For violation of the prohibitions established by these articles, the FAS Russia has the right to make decisions abolishing

anticompetitive acts and actions of authorities and imposing sanctions against the authorities.

In 2019, the FAS Russia considered 6 040 applications (Article 15, acts and actions that restrain competition) (6 394 in 2018, 6078 in 2017, 5780 in 2016) and 331 cases were initiated (461 in 2018, 531 in 2017, 498 in 2016). In 258 cases, a decision was made to recognize the violation (383 in 2018, 436 in 2017, 336 in 2016) and 168 rulings were issued (272 in 2018, 316 in 2017, 213 in 2016).

44 decisions were appealed in court (113 in 2018, 109 in 2017, 94 in 2016). Of these, 8 decisions were found lawful (14 in 2018, 20 in 2017, 16 in 2016), 2 – invalid (3 in 2018, 10 in 2017, 3 in 2016) and the remaining decisions are in the stage of judicial review.

In 2019, 812 applications regarding anticompetitive agreements with the participation of authorities were received (Article 16, restricting competition agreements and concerted actions) (524 in 2018, 435 in 2017, 437 in 2016). 367 cases were initiated (275 in 2018, 239 in 2017, 238 in 2016). In 276 cases, a decision was made to recognize the violation (233 in 2018, 181 in 2017, 196 in 2016) and 133 rulings were issued (133 in 2018, 106 in 2017, 130 in 2016).

83 of the decision were appealed in court (47 in 2018, 61 in 2017, 56 in 2016). Of these, 9 decisions were found lawful (8 in 2018, 5 in 2017, 8 in 2016), 1 – invalid (0 in 2018, 2 in 2017, 2 in 2016) and the remaining decisions are in the stage of judicial review.

2.5.2. Description of significant cases

Anticompetitive agreement on the market for performing works on the implementation of an investment construction project

By Decree of the President of the Russian Federation of December 31, 2014 No. 833 "On improving the efficiency of air transport support of the Irkutsk region" (hereinafter – the Presidential Decree), the proposal of the Government of the Russian Federation and the Government of the Irkutsk region was adopted to transfer federal ownership of shares of Irkutsk International Airport JSC and the property complex of the Irkutsk airfield to attract investments by the Government of the Irkutsk Region on the basis of a public-private partnership for the reconstruction and construction of facilities at the existing airport in Irkutsk, as well as the construction of a new airport complex in Irkutsk.

Based on the provisions of the Law on the participation of the Irkutsk region in public-private partnerships and the Law on public-private partnerships, the determination of an investor for the reconstruction and construction of facilities at the operating airport in Irkutsk was to be carried out following a tender.

In relation to the Governor of the Irkutsk Region, the Government of the Irkutsk Region, Ramport Aero JSC, Aeon Infrastructure Corporation LLC, Novaport LLC, Sistema Upravleniya LLC, Irkutsk Terminal LLC, Irkutsk International Airport JSC, Novaport Holding LLC and Airport Tolmachevo JSC the FAS Russia initiated a case on violation of the Part 4 of the Article 16 of the Law on Protection of Competition.

As part of the investigation of this case, it was revealed that there was an anticompetitive agreement between the state authorities of the constituent entity of the Russian Federation and economic entities, which lasted for about four years and led to restriction of access to the market for the implementation of an investment project for the construction of a new airport complex on the territory of the Irkutsk international airport.

Based on the results of the consideration of the case, the Competition Authority issued remedies directly stipulating the obligation of the Governor of the Irkutsk Region to determine the procedure for selecting investors for an investment project on non-discriminatory terms, as well as the obligation of the Government of the Irkutsk Region to agree with the Competition Authority the list of documents required for holding a tender for the selection of a private investor for the construction of a new airport terminal complex of the Irkutsk international airport. The decision on the case, as well as the materials of the checks were sent to law enforcement agencies.

Restriction of the implementation and development of the activities of economic entities

As a result of anticompetitive actions by the Municipal Service Department of the Volgograd Authority and "Pamyat" Ceremonial Enterprise" CJSC during 2002-2018 access to other business entities on the funeral services market was limited by virtue of agreements concluded by the Municipal Service Department of the Volgograd Authority with "Pamyat" Ceremonial Enterprise" CSJS for a period of 15 years.

As it turned out in the course of the proceedings, two agreements were concluded between the economic entities in 2002: an agreement for the burial of citizens and an agreement for the maintenance of cemeteries and columbariums, their current maintenance and major repairs. Both documents were concluded for a period of 15 years.

Additional agreements were concluded between the Municipal Service Department of the Volgograd Authority and "Pamyat" Ceremonial Enterprise" CSJS in March 2017, which extended the terms of these agreements for another 10 years. At the same time in accordance with additional agreements, from March 1, 2017, the work should have been carried out free of charge. Thus, the organizations essentially entered into new contracts for a new term until 2027 without competitive procedures.

At the same time, when deciding on the extension of the agreement on the maintenance of cemeteries, the administration did not take into account other potential market

participants and potential applicants to conclude an agreement on the maintenance of municipal cemeteries in Volgograd, their current maintenance and thorough overhaul.

The illegal agreement resulted in the following:

- restriction of competition in the market of funeral services in the territory of Volgograd, which limited the possibility of citizens choosing a person providing funeral services and unjustified overpricing for them;
- creation of conditions under which the "Pamyat" Ceremonial Enterprise" CSJS had access to the personal data of the deceased, as well as their relatives, which made it possible to offer priority services for burial;
- limiting the possibilities for the implementation and development of the activities of other economic entities.

"Pamyat" Ceremonial Enterprise" CSJS, being at the same time a market participant and having the authority to control activities in cemeteries, influenced the activities and created obstacles for other business entities to enter the cemeteries when providing funeral services.

The FAS Russia has repeatedly received applications from citizens testifying that the activities of "Pamyat" Ceremonial Enterprise" CSJS in the funeral services market in Volgograd lead to the establishment of unreasonably high prices for funeral services for the population.

The FAS Russia Commission found that the actions of the Municipal Service Department of the Volgograd Authority and "Pamyat" Ceremonial Enterprise" CSJS, expressed in the conclusion and implementation of an agreement that leads to restriction of competition on the funeral services market in Volgograd, violate the Article 16 of the Law on Protection of Competition.

The Municipal Service Department of the Volgograd Authority and "Pamyat" Ceremonial Enterprise" CSJS were issued mandatory remedies.

For the commission of this offence "Pamyat" Ceremonial Enterprise" CSJS was brought to administrative responsibility under the Part 4 of the Article 14.32 of the Code of Administrative Offences of the Russian Federation in the form of an administrative fine in the amount of 720 853 rubles.

"Pamyat" Ceremonial Enterprise" CSJS disagreeing with the decision on the case filed an application with the Moscow Arbitration Court to declare this decision illegal. The judicial acts upheld the decision on the case.

At the moment, the remedies issued to the Municipal Service Department of the Volgograd Authority and "Pamyat" Ceremonial Enterprise" CSJS have been fulfilled, which has led to the termination of the agreement on the market of funeral services in Volgograd that violates the antimonopoly legislation. This created equal conditions for

the activities of all market participants and is aimed at improving the quality and reducing prices for funeral services in Volgograd.

Actions to conclude municipal contracts for the provision of regular passenger transportation services at regulated tariffs on municipal routes without competitive procedures

The last competitive procedures for determining the contractor to provide regular passenger transportation services at regulated rates were conducted by the Oryol city Administration (hereinafter referred to as the Administration) in February 2016. Contracts concluded as a result of such procedures were valid until December 31, 2016. Since 2017, contracts have been concluded without competitive procedures.

The analysis of the passenger transportation market within the boundaries of the Oryol city and the Oryol district of the Oryol region showed that the market is competitive. The lack of competitive procedures for the right to conclude municipal contracts and as a result the inability to conclude an agreement in the manner prescribed by law restricts business entities access to the market for passenger transportation services, created unreasonable obstacles for an indefinite range of carriers in the implementation of activities.

On the grounds of violation of the Paragraph 8 of the Part 1 of the Article 15 of the Law on the Protection of Competition a warning dated January 18, 2019 was sent to the Administration of the Oryol city and the Municipal Economy and Transport Department of the Administration about the implementation of actions aimed at invalidating all municipal contracts concluded with the sole contractor (that is, without bidding), and the implementation of the further conclusion of municipal contracts for the provision of regular passenger transportation services in accordance with applicable law through competitive procedures. The warning was not executed.

On May 13, 2019, case No. 057/01/15-370/2019 was initiated. A decision was made on the existence of a violation, remedies were issued to conduct competitive procedures and conclude contracts in accordance with applicable law. The remedies were fully implemented on March 18, 2020.

2.6. Summary of courts' action

2.6.1. Summary of activities of competition authorities and courts

In 2019, attempts were made to appeal 571 decisions of the FAS Russia in the area of competition protection (632 in 2018, 688 in 2017, 676 in 2016), of which 465 at the end of 2019 were in the stage of judicial review. The court supported the decisions of the competition authority in 91 cases (112 in 2018, 114 in 2017, 174 in 2016); 7 decisions were held partially invalid (1 in 2018, 7 in 2017, 5 in 2016). Revocation of the FAS's decisions was recognized to be necessary in 8 cases (11 in 2018, 31 in 2017, 15 in 2016).

53 929 proceedings for administrative offences in the field of antimonopoly regulation were instituted in 2019 (53 968 in 2018, 47 539 in 2017, 42 299 in 2016). 42 757 decisions on the imposition of fines in a total amount of 8 242 258 300 rubles (118 866 267 euro) were issued (42 490 decisions in a total amount of 6 480 102 448 (89 258 500 euro) in 2018, 36 803 decisions in a total amount of 4 168 447 170 rubles (54 785 200 euro) in 2017, 31 398 decisions in a total amount of 4 276 991 649 rubles (56 211 800 euro) in 2016).

The courts of three instances upheld the decision of the FAS Russia on the cartel agreement in the field of State defence order

This case is of precedent importance and is included in the list of the best cases of the branch divisions of the central office of the FAS Russia for 2019.

Earlier, the FAS Russia recognized three manufacturers of civil filtering gas masks and 17 dealers (distributors and regional representatives) as violating the antimonopoly legislation – having entered into a cartel agreement.

The courts of appeal and cassation, the Supreme Court of the Russian Federation agreed with the position of the FAS Russia, confirmed the legality of the authority's decision, and appealed decisions in cases of administrative offences.

The litigation is important, since the results of its consideration form a new practice – a cartel agreement to maintain prices is possible, including with a decrease in the maximum starting price of contract: in most purchases, the decrease exceeded 20% and in two cases it was more than 40% and 50%. The courts also confirmed the position of the FAS Russia that the agreement between the three manufacturers and their dealers is a cartel.

A positive judicial practice has been created – for the recognition of a cartel no interaction is required directly between its participants. In the case under consideration the cartel members interacted exclusively with a third party – a corporation that is not a competitor to them guided by a not approved but communicated document containing general rules of conduct for cartel members.

The courts of three instances and the Supreme Court of the Russian Federation upheld the decision of the FAS Russia on the new law adopted by the Legislative Assembly of the Krasnoyarsk Territory

The Legislative Assembly of the Krasnoyarsk Territory adopted a law according to which subsidies to reimburse companies for part of the costs associated with conducting voluntary certification and promoting food products in the region at the expense of the budget were provided not to organizations in the agricultural and food industries, as foreseen by the legislation in the field of agricultural development, but to non-profit structures that distributed budgetary funds among their members.

The law passed by the Legislative Assembly did not allow companies that were not members of a non-profit organization, as well as organizations registered outside the region to receive such subsidies.

Thus, the provisions of the law did not meet the principles of legal equality, fairness, targeted state support, the principle of prohibition of unreasonable preferences and violated the Law on Protection of Competition.

The Krasnoyarsk OFAS Russia concluded that such a violation infringes on the constitutional principle of the unity of the economic space of the Russian Federation and issued a corresponding warning to the authority. The courts of three instances and the Supreme Court of the Russian Federation upheld the findings of the Competition Authority.

The Legislative Assembly of the Krasnoyarsk Territory eliminated the violation by bringing the provisions of the regional law in line with the requirements of the antimonopoly legislation and thus eliminated discriminatory conditions in the provision of state support measures.

The case took third place in the top 20 best cases of territorial bodies of 2019, noted by the Presidium of the FAS Russia, under the Articles 15, 16 and 19-21 of the Law on Protection of Competition.

Part 3. Conducted market studies

From 2012 the FAS Russia Commission for the analysis of commodity markets, which includes representatives of the structural departments of the central office and territorial bodies of the FAS Russia, the Public Advisory Council²⁴ and expert councils²⁵ of the FAS Russia, as well as business entities, public associations and scientific organizations, has been in charge of analyzing commodity markets. The Commission's functions include consideration of proposals by representatives of the FAS Russia and the development of draft plans of the authority for analyzing commodity markets, guidelines for relevant analyzes and their approval, as well as reviewing the materials of conducted commodity markets analyzes.

The Head of the FAS Russia approves the FAS Russia's Work Plan for analyzing the state of competition in commodity markets, which specifies the list of commodity markets for the annual review.

The Commission is chaired by the Deputy Head of the FAS Russia Andrey Tsyganov.

²⁴ [http://fas.gov.ru/councils/sovet-po-konkurenczii-pri-fas-rossii-\(obshhestvenno-konsultativnyij-sovet\)](http://fas.gov.ru/councils/sovet-po-konkurenczii-pri-fas-rossii-(obshhestvenno-konsultativnyij-sovet)) (Russian version only)

²⁵ https://fas.gov.ru/pages/vazhnaya-informacziya/otkryitoe-vedomstvo/ekspertnye_sovety (Russian version only)

According to the amendments to the Russian competition legislation, which entered into force in 2016 with the adoption of the “Fourth antimonopoly package”, market research (or “market analysis” in accordance with the Russian conceptual apparatus) is conducted in the volume necessary for decision-making when all cases of violation of antimonopoly legislation and economic concentration cases are examined.

The FAS Russia also conducts market studies in order to assess the state of competition in socially significant markets.

Thus, according to the List of commodity markets for the annual review, the FAS Russia annually analyzes the state of competition in the following markets: wholesale automobile gasoline market, wholesale diesel market, wholesale raw oil market, wholesale aviation kerosene market, fuel oil wholesale market, wholesale oil bitumen market, the wholesale market of fuel additives, which increase the actane number of automobile gasoline, the wholesale market of liquefied petroleum gases, the wholesale market of energy coal, the wholesale market of natural gas, mobile telephone communications market, wholesale and retail electricity power markets, heat supply market.

Besides, the FAS Russia conducts market studies, according to the Work Plan for analyzing the state of competition in commodity markets. Thus, in accordance with the Plan for 2019-2020²⁶ the FAS Russia analyzed the following markets²⁷: market for soybeans for sowing, communication services market for television broadcasting, wholesale market for alcoholic beverages, wholesale market for motor gasoline, wholesale market for diesel fuel, wholesale market for liquefied hydrocarbon gases, wholesale market for petroleum bitumen, wholesale market for fuel additives, market for crude oil, retail market for motor gasoline, retail market for diesel fuel, wholesale market for natural gas in the Russian Federation, wholesale market for aviation kerosene, wholesale market for fuel oil, market for providing services for the production of oil and combustible natural gas, market for construction, reconstruction and overhaul of federal highways, the wholesale electricity (capacity) market, the retail electricity (capacity) market, the market for the provision of heat supply services to the end user, the market for services for the collection and transportation of solid municipal waste, the market for mobile radiotelephone communications.

3.1. Market analysis in Siemens/Alstom merger review

For example, an in-depth market analysis was carried out by the FAS Russia as part of the consideration of the Siemens/Alstom transaction.

²⁶www.consultant.ru/document/cons_doc_LAW_338767/38b2dabe6906d4e4505892fb2080e7ea8a9f601a/ (Russian version only)

²⁷ The FAS Russia Order No. 1929/18 of December 29, 2018 «On the Work Plan for Analyzing the State of Competition in Commodity Markets for 2019 - 2020»: <https://legalacts.ru/doc/prikaz-fas-rossii-ot-29122018-n-192918-o-plane/#100019>

Siemens manufactures all types of rail transport, including locomotives and ICE trains for high-speed railways in Germany, connecting major cities, as well as city trams and security systems.

Alstom S.A. is one of the world leaders (along with Siemens and Bombardier) in the production of power equipment and railway transport. The company's revenue in 2017-2018 amounted to 8 billion euros.

In addition, both companies are leaders in rail safety systems.

The planned merger of the railway engineering divisions was announced in September 2017. It was assumed that the merged company would be called Siemens-Alstom. Its annual revenue was supposed to be about 15.3 billion euros with the staff of 62 thousand employees.

The analysis of the Siemens/Alstom merger included not only a study of the EU market, but also of the global market.

FAS Russia based on the results of consideration of the transaction on the acquisition by Siemens AG (Germany) of shares in Alstom S.A. (France) concluded that the transaction had a negative impact on the state of competition in the railway engineering industry in Russia (markets for electric trains, electric locomotives and components for them (traction systems and electric drives) due to the following circumstances.

The deal is global in nature. If implemented, the two largest manufacturers of railway rolling stock in the European Union would merge. The merged Siemens-Alstom company would become one of the key players in the global market for the production of high-speed electric trains and electric locomotives.

In the event of the transaction, the merged Siemens-Alstom company would receive partial control over two Russian manufacturers of railway equipment, which prior to the transaction are independent market participants and compete with each other: 50% stake in Uralskie Lokomotivy LLC (an affiliate of "Siemens AG") and 20% of shares of CJSC "Transmashholding"(an affiliate of the company "Alstom SA").

Despite the insignificant share of Alstom S.A. at CJSC Transmashholding, the company, under the terms of the shareholder agreement, has the ability to influence certain decisions of the Russian manufacturer, including limiting technological cooperation with other companies. At the same time, due to the dependence of CJSC Transmashholding on modern foreign technologies, the transaction under consideration may lead to a decrease in the competitiveness of the products of this enterprise and, as a consequence, to a deterioration of the competitive environment in the territory of the Russian Federation.

In August 2018, Siemens AG withdrew an application to review the transaction.

3.2. Market analysis when carrying out measures for the transition to digital broadcasting

During 2019, analog broadcasting was phased out in 84 regions of the Russian Federation: February 11 (in 7 regions), April 15 (in 20 regions), June 3 (in 36 regions), October 14 (in 21 regions). On December 3, 2018, analog broadcasting was switched off in the "pilot region" in the Tver region.

In order to carry out these events, the FAS Russia analyzed the state of competition in the retail market for devices connected to televisions that receive a digital signal from television channels of the DVB-T2 standard and transmit this signal in the appropriate form to a television receiver (TV), called TV/digital - set-top boxes, receivers, tuners and DVB-T2 receivers (hereinafter referred to as the Devices) on the territory of the Russian Federation for 2018.

The analysis was carried out in the course of considering the actions of LLC DNS Retail, LLC Eldorado, PJSC M.Video, NJSC Yulmart on the implementation of the Devices during the pilot project to turn off analogue broadcasting for signs of violation of antimonopoly legislation in the territory of Tver region.

The purpose of the study was to assess the state of the competitive environment in the retail market for Devices in the Russian Federation.

During the market analysis, it was found that the sale of Devices is carried out by a large number of small online stores, retail stores that do not specialize in the sale of audio-video electronics, and others. At the same time, large federal networks have been identified that are conducting intensive advertising campaigns aimed at attracting consumer attention to the network as a whole.

Thus, one of the economic barriers to entering the market for the sale of Devices can be attributed to the advertising costs necessary to be able to compete with large federal networks. Meanwhile, such costs may be insignificant depending on the channel for placing advertising materials, up to the creation and administration of various groups and communities in social networks. This kind of costs will not require financial costs.

Thus, the above economic barrier is easily surmountable. No other barriers to entering the market were identified during the analysis.

In the course of the analysis, it was determined that the aggregate share of LLC DNS Retail, LLC Eldorado, LLC MVM exceeds 50%, while the share of each of them is more than 8%. The relative size of the shares of LLC DNS Retail, LLC Eldorado, LLC MVM remained unchanged throughout 2018.

Information about the price of goods is available to an indefinite circle of persons (it is presented in retail outlets and on sites in the information and communication network Internet).

Based on the foregoing, it was established that LLC DNS Retail, LLC Eldorado, LLC MVM occupy a dominant position in the market for retail sales of digital set-top boxes (receivers) in the Russian Federation.

FAS Russia initiated cases on the grounds of violation of paragraph 1 of part 1 of Article 10 of the Law on Protection of Competition, expressed in the establishment of a monopoly high price for digital set-top boxes in relation to large chain stores (LLC DNS Retail, LLC Eldorado, PJSC M.Video).

The initiation of cases by FAS Russia in relation to chain stores had a “warning effect” and was a factor in price stabilization and an increase in the share of digital set-top boxes in the “cheap price segment”, which ensured the stability and transparency of the entire process of transition to digital broadcasting.

The summary results of the assessment of the competitive environment, the information provided by the participants of the studied market, as well as the comparison and analysis of quantitative and qualitative indicators characterizing the investigated market for the retail sale of Devices allowed us to conclude that the market for retail sales of receivers in the Russian Federation is a highly concentrated market with an insufficiently developed competitive environment.

The shutdown of on-air analogue broadcasting and the transition to digital broadcasting was preceded by a large-scale work carried out by the FAS Russia in terms of establishing economically feasible tariffs for technical means²⁸.

FAS Russia has consistently set tariffs for technical means used for the provision of communication services for the purpose of on-air TV and radio broadcasting in digital format, in the DVB-T standard, then in the DVB-T2 standard.

The provision of communication services for the purpose of on-air television and radio broadcasting in digital format contributed to the increase in the efficiency of Russian television and radio broadcasting network.

The newly established tariffs for public telecommunication services for terrestrial digital television and radio broadcasting led to a decrease in the average payment for broadcasters (service consumers) by an average of 4.7 times per transmitter in digital broadcasting compared to the average payment in analogue format.

The implementation of a balanced tariff policy by the FAS Russia made it possible to ensure a smooth transition from analogue to digital broadcasting, providing the

²⁸ <http://en.fas.gov.ru/press-center/news/detail.html?id=53884>

population of the Russian Federation with high-quality digital television with an increase in digital broadcasting coverage to 98.4%.

Part 4. International cooperation

4.1. Interaction with international organizations

One of the main activities of the FAS Russia is interaction with relevant international organizations, including the Organization for Economic Cooperation and Development (OECD), the UN Conference on Trade and Development (UNCTAD), Asia-Pacific Economic Cooperation (APEC), the International Competition Network (ICN).

In 2019, the FAS Russia participated in all meetings of the OECD Competition Committee and its working groups, meetings of the OECD Network of Economic Regulators and OECD Investment Committee, as well as participated in the OECD Workshop on Vertical Mergers and Vertical Restraints and OECD Competition Open Day. The FAS Russia prepared 12 reports on the legislative and law enforcement experience of the authority that were published in the OECD documents database²⁹.

The FAS Russia's cooperation with the OECD-GVH Regional Center for Competition in Hungary (RCC) continued to develop³⁰. In 2019, employees of the FAS Russia took an active part in training seminars of the OECD RCC, core audience of which is young specialists of the antimonopoly authorities. Seminars were devoted to both the discussion of general theoretical issues of competition policy and special issues such as advocacy of competition and antimonopoly regulation in various markets.

In May 2019, the FAS Russia held a joint seminar with the OECD RCC in Kazan (Russia) on the topic "Investigation of merger transactions. New Approaches", during which representatives of competition authorities from 9 countries (Azerbaijan, Armenia, Belarus, Hungary, Kazakhstan, Kyrgyzstan, Moldova, Russia and Uzbekistan) considered the main economic methods in conducting antimonopoly investigations, as well as effective structural and behavioral remedies when considering transactions of economic concentration.

In December 2019, representatives of the FAS Russia took part in the OECD RCC seminar on the topic "Competition Rules in the Energy Sector", which took place in Budapest (Hungary). During the seminar, the participants studied the general issues of competition in the energy sector and number of characteristics and unique features that

²⁹ On the website <https://one.oecd.org/> No. DAF/COMP/WD(2019)7; DAF/COMP/WD(2019)20; DAF/COMP/WP2/WD(2019)8; DAF/COMP/WP3/WD(2019)16; DAF/COMP/WD(2019)36; DAF/COMP/WD(2019)96; DAF/COMP/GF/WD(2019)56; DAF/COMP/WD(2019)91; DAF/COMP/WP2/WD(2019)21; DAF/COMP/WP3/WD(2019)48; DAF/COMP/GF/WD(2019)5; DAF/COMP/GF/WD(2019)25.

³⁰ <http://www.oecdgvh.org/menu/about>

should be taken into account when analyzing the state of competition in this sector, became acquainted with the international practice of competition issues in mergers and abuse of a dominant position in the modern energy sector.

The cooperation between the FAS Russia and the OECD RCC received a high appraisal when considering the issue of international activities of the OECD Competition Committee at its meetings in 2019.

One of the priorities of the FAS Russia in recent years is promoting on the UNCTAD platform an initiative to create global mechanisms for interaction between competition authorities in order to identify and suppress unfair business practices by transnational corporations, including cross-border cartels and violations of a cross-border nature³¹.

The working platform for the implementation of this initiative was the UNCTAD Discussion Group on International Cooperation, created in 2017 at the initiative of the FAS Russia following the 16th session of the Intergovernmental Group of Experts on Competition Law and Policy (IGE) UNCTAD.

Within the framework of the Discussion Group, a coordinated position was developed on the need to create appropriate legal mechanisms and formalize them during the 8th Conference on the Revision of the UN Set on Competition in 2020.

During the 18th session of the IGE UNCTAD, which took place in July 2019 in Geneva (Switzerland), the competition authorities of the UNCTAD member states adopted the text of the Guiding Policies and Procedures for International Cooperation under Section F of the UN Set on Competition³². The decision to include the given document, developed on the initiative and with the active participation of the FAS Russia, for consideration and adoption in 2020 was formally established in the final documents of the 18th session of the IGE UNCTAD.

At the same time, on the initiative of the Russian Federation, the issue of global combating cross-border cartels was included in the agenda of the 8th Conference on the Revision of the UN Set on Competition³³. At the suggestion of the UNCTAD Secretariat, within the framework of the upcoming 8th Conference, the FAS Russia will be a co-organizer and moderator of a special session dedicated to combating cross-border cartels.

The FAS Russia considers it necessary to continue consultations on cross-border cartels in the foreseeable future, since they are the most dangerous type of anticompetitive practice, difficult to detect, and their investigation requires a high degree of

³¹ <http://en.fas.gov.ru/press-center/news/detail.html?id=53385>

³² <https://unctad.org/en/pages/MeetingDetails.aspx?meetingid=2364>

³³ https://unctad.org/meetings/en/SessionalDocuments/ccpb_comp1_%20Guiding_Policies_Procedures.pdf

coordination and cooperation between competition authorities.

Regarding cooperation with the APEC, the FAS Russia took part in the Annual Meetings of the APEC Economic Committee and the APEC Competition Policy and Law Group, in APEC events organized as part of the Senior Officials' Meeting (SOM 1) of the APEC Forum, in the seminar "Conducting Economic Analysis in Considering Horizontal and Vertical Mergers" organized by the Chilean National Economic Prosecutor's Office, as well as in formation of the Comprehensive Action Plan of the Russian Federation in the APEC Forum for the 2019-2021 by proposing to complement the sections "Trade liberalization, investment, regional economic integration" ("Public Procurement", "Trade in Services", "Structural Reforms", "Competition Policy"); and "Intensive Interaction to Ensure Innovative Growth" ("Intellectual Property").

In 2019, the FAS Russia continued its cooperation with the ICN.

In 2019, for the first time the FAS Russia was elected as a co-chair of the ICN Cartel Working Group together with the competition authorities of Brazil and France. Previously, the FAS Russia for 10 years was the co-chair of the second subgroup of the ICN Cartel Working Group.

The chairmanship of the FAS Russia in the ICN Cartel Working Group will make it possible to directly participate in shaping the agenda for further activities of this Working Group and its subgroups.

In 2019, representatives of the FAS Russia took an active part in the events of the ICN Annual Conference that took place on May 13-17, 2019 in Cartagena (Colombia), including organization and moderation of meetings of the ICN Working Groups and preparation of information content for these events.

During the ICN Annual Conference in Cartagena, representatives of the FAS Russia participated as speakers at the sessions: "Challenges and Perspectives for Competition Law in Creative and Cultural Economy", "Interaction of Public and Private Enforcement for Cartels", "Review of Retail Mergers around the Worlds", "Optimizing the Design and Coordination of Leniency for Cross-Border Cartel Enforcement", "Remedies in Unilateral Conduct Cases".

As part of the Conference, an award ceremony was held for the winners of the World Bank – ICN Competition Advocacy Competition 2018-2019³⁴. The FAS Russia became the winner in the nomination "Promoting competitive digital infrastructure, digital platforms and digital finance". Members of an authoritative international jury recognized the project "Abolishment of national and intra-network roaming" as the winner in this nomination.

³⁴ <https://www.worldbank.org/en/events/2018/12/06/2018-2019-competition-advocacy-contest>

During 2019, representatives of the FAS Russia also took an active part in other events of the ICN, including meeting of the ICN Cartel Working Group (Foz do Iguaçu, Brazil) and meeting of the ICN Unilateral Conduct Working Group (Mexico City, Mexico).

In addition, in 2019 the FAS Russia actively participated in the activities of the Energy Regulators Regional Association (ERRA)³⁵ and its committees and working groups, such as Customers and Retail Markets Working Group, Tariff and Pricing Committee and Licensing and Competition Committee.

On April 15-16, 2019 representatives of the FAS Russia attended the ERRA Annual Meeting in Skopje (Republic of North Macedonia)³⁶. At the meeting, it was decided to amend the Charter of the organization regarding the need to improve payment discipline, summed up the results of ERRA's activities in 2018, and discussed a strategy for developing cooperation and a work plan for the future period.

On October 9-10, 2019 the ERRA Annual Energy Investment and Regulation Conference was held in Riga (Republic of Latvia). During the events of the Conference, special attention was paid to the development of digital technologies and ways of using them in the energy sector. Throughout the discussion, the FAS Russia provided information on the mechanism for stimulating investments in RES generation by paying for the capacity of such facilities under power supply contracts in the Russian Federation.

4.2. Bilateral cooperation with Competition Authorities

In 2019, the FAS Russia made efforts to expand the legal framework enhancing international cooperation with foreign competition authorities in order to create a legal basis for applying modern mechanisms to combat transborder violations of antimonopoly legislation. By now, the FAS Russia has concluded six agreements of different levels.

In 2019, the FAS Russia further developed cooperation with the antimonopoly authority of the Republic of Belarus.

Since 2016, with the establishment of the Ministry of Antimonopoly Regulation and Trade of the Republic of Belarus (MART), strong bilateral ties have been established between the antimonopoly authorities of our countries. In September 2016, the FAS Russia and MART signed a Memorandum of Understanding on cooperation in the field of competition policy³⁷.

³⁵ <http://en.fas.gov.ru/international-cooperation/erra/>

³⁶ <https://erranet.org/?popupLogin=true&referer=https%3A%2F%2Ferranet.org%2Fsingle-event%2Ferra-general-assembly-2019%2F>

³⁷ <https://fas.gov.ru/pages/international-partnership/soglasheniya-o-sotrudnichestve/> (Russian version only)

During 2018, the FAS Russia and MART developed and approved a draft Agreement between the Government of the Russian Federation and the Government of the Republic of Belarus on cooperation in the field of competition protection (hereinafter – the Agreement), which was signed on February 27, 2019 in Moscow.

The purpose of the Agreement is to create a legal basis for the implementation of practical interaction between the antimonopoly authorities of the two countries in law enforcement. The Agreement formalised such forms of cooperation as the exchange of information, including confidential information, sending notifications, requests for information and documents, orders to conduct certain procedural actions or enforcement activities, as well as proposals for the coordination of enforcement activities. The Agreement provides for a detailed disclosure of the terms of application of each of the following forms of cooperation. It entered into force on July 31, 2019.

The next step on the path of developing cooperation with the Republic of Belarus was the signing on August 22, 2019 of the Memorandum between the Federal Antimonopoly Service (Russian Federation) and the Ministry of Antimonopoly Regulation and Trade (Republic of Belarus) on the establishment of the Joint Russian-Belarusian Expert Council on the development of competition in socially significant markets (hereinafter – Russian-Belarusian Council)³⁸.

The main purpose of the creation of the Russian-Belarusian Council is to discuss the development of competition in the markets of the Union State of the Russian Federation and the Republic of Belarus, which are of high social significance, as well as to develop decisions and recommendations for the antimonopoly authorities of the two countries to take into account when making decisions aimed at developing competition in the respective commodity markets.

New forms of Russian-Belarusian cooperation in the field of competition policy will make it possible to achieve goals within the framework of the functioning of the Union States of Russia and Belarus.

The Russian-Belarusian Council is another mechanism that makes it possible to identify unfair business practices in Russia and Belarus, including on the part of large transnational corporations.

4.3. Development of competition legislation and its enforcement at regional and multinational level

Commonwealth of Independent States

In relation to competition authorities of the CIS Countries, interaction is mainly carried out through the Interstate Council for Antimonopoly Policy (ICAP)³⁹, which is the

³⁸ <https://en.fas.gov.ru/press-center/news/detail.html?id=54302>

³⁹ <https://en.fas.gov.ru/international-cooperation/icap/>

body of sectoral cooperation of the CIS, as well as the Headquarters for Joint Investigations of the Violations of the Antimonopoly Legislation in the CIS Countries (hereinafter – Headquarters) created under the ICAP in 2006.

Significant results of the work of the ICAP and the Headquarters in 2019 were the preparation and approval of the following reports by the statutory bodies of the CIS:

"Formation of competition policy in the CIS Member States in the context of the development of the digital economy";

"On the main directions of activities of the antimonopoly authorities of the CIS Member States and the Interstate Council on Antimonopoly Policy".

In 2019, in accordance with the previous decision of the ICAP, the FAS Russia prepared Model Recommendations on application of waivers of confidentiality when considering transactions of economic concentration for the competition authorities of the CIS Member States, adopted during the ICAP meeting in 2019 and recommended for practical application by the antimonopoly authorities of the CIS Member States.

An important area of cooperation between the antimonopoly authorities of the CIS Member States within the framework of the ICAP is the development of joint positions for their presentation at international platforms.

Initiatives of the FAS Russia developed at the UNCTAD platform in recent years – development and adoption of the Guiding Policies and Procedures under Section F of the UN Set on Competition, the initiative to consolidate the efforts of the world community to combat cross-border cartels – were approved and developed thanks to the support of the CIS Member States, which was facilitated by the systematic work carried out within the framework of the ICAP.

The Eurasian Economic Union (EAEU)⁴⁰

This year has become a year of active development of cooperation within the framework of the Eurasian Economic Union (EAEU).

The FAS Russia closely interacts with both the Eurasian Economic Commission (EEC) and competition authorities of the EAEU Member States. Cooperation within the EEC was carried out both on the issues of the law enforcement activities carried out by the EEC in the field of antimonopoly regulation, and on the improvement of the legal framework of the EAEU in terms of competition policy.

As part of the work to improve the law of the EAEU, the FAS Russia took part in the development and approval of the draft Protocol on Amendments to the Treaty of the Eurasian Economic Union of May 29, 2014 (hereinafter – the Protocol), which provides for the introduction of "warning" mechanisms for violations of the general

⁴⁰ <http://www.eaeunion.org/?lang=en>

rules of competition, which will allow, in a short time, without lengthy investigation procedures, to restore the conditions for competition in the cross-border markets of the EAEU.

The Protocol also includes provisions that determine the need to develop a number of EEC normative legal acts related to the implementation of the authority to issue warnings, preparation of an annual report on the state of competition in the EAEU cross-border markets, application of the mechanism of exemption from liability in case of a voluntary statement by an economic entity (market entity) on conclusion of anticompetitive agreements.

The Protocol was signed during the meeting of the Supreme Eurasian Economic Council, which took place on October 1, 2019⁴¹. Currently, this document is undergoing the ratification procedure in the EAEU Member States.

In addition, in the reporting period, a draft "roadmap" Action Plan for the implementation of strategic directions for the Eurasian economic integration until 2025 was prepared, which provides for the implementation of a number of strategic areas of joint work in the field of competition policy.

During 2019, the FAS Russia cooperated with the European Economic Commission (EEC) regarding 11 submitted applications (materials) on signs of violation of general competition rules.

Four of the given applications were subject to investigation of violation of the general rules of competition on cross-border markets (passenger air transportation market, all-rolled steel wheels market, the margarine market, the confectionery market).

The practice of issuing proposals to take actions aimed at eliminating signs of violations of general competition rules and ensuring competition in cross-border markets (temporary mechanism used by the EEC prior to the entry into force of amendments to the Treaty on the Eurasian Economic Union, providing for the use of the institution of "warnings") continued. Based on four applications received by the EEC in 2019, such proposals were prepared (steel market, coal market, natural gas market, market of translucent structures).

Discussion of current issues in the field of the EAEU competition policy is carried out during meetings of the heads of the competition authorities of the EAEU member states and the Member of the Board (Minister) on competition and antimonopoly regulation of the Eurasian Economic Commission, which are held in accordance with Paragraph 57 of Appendix No. 19 to the EAEU Treaty.

Purpose of such meetings is to discuss the most pressing issues of law enforcement, legal harmonization of the EAEU member states and information exchange. Such

⁴¹ http://www.consultant.ru/document/cons_doc_LAW_163855/ (Russian version only)

meetings were called the meeting of the heads of competition authorities of the EAEU member states in the 5 + 1 format. In 2019, such meetings were held in Moscow and in Bishkek (Kyrgyz Republic).

As part of the interaction with the EEC on the consideration of the received applications, the FAS Russia on the basis of the Treaty of the Eurasian Economic Union provided the EEC with the necessary information, fulfilled the EEC's motivated requests for certain procedural actions, participated in the preparation and approval of proposals to eliminate signs of violations of general competition rules.

It seems important to further develop cooperation between the EEC and the antimonopoly authorities of the EAEU Member States, which ensures an increase in the efficiency of their law enforcement activities in order to protect and develop competition in the EAEU markets, as one of the most important factors in the effective functioning of the Union.

Representatives of the FAS Russia took an active part in the activities of the high-level working group on the implementation of state (municipal) procurement in the EAEU Member States, created in accordance with the Order of the Board of the Eurasian Economic Commission No. 120 of July 17, 2018.

Work in this direction was associated with the preparation of amendments to the Protocol on the procedure for regulating procurement (Appendix No. 25 to the Treaty on the Eurasian Economic Union) aimed at consolidating a mechanism for establishing repeated exemptions from the national regime (repeated procurement from one source), which would have ensured the elimination of barriers, reduction of exemptions and restrictions for the free movement of goods, services, capital and labor in the internal market of the EAEU, the development of competition in the field of public procurement and, as a consequence, optimal spending of budget funds.

Also in 2019, the FAS Russia took an active part in addressing the issue of the possibility of recognizing bank guarantees for public procurement purposes.

In accordance with the Order of the EEC Council of August 8, 2019, the EEC, together with the authorized bodies and central banks of the EAEU Member States, completed the preparation of a draft international Agreement on the mutual recognition of bank guarantees in public procurement (hereinafter – the Agreement).

The issue of mutual recognition of bank guarantees for public procurement purposes will remain relevant on the current agenda at the EEC platform and will require further discussion and elaboration with the Member States for the early adoption of the Agreement.

BRICS

Cooperation in the BRICS format began 10 years ago. It is based on a Memorandum of Understanding between the BRICS Competition Authorities on cooperation in the field of competition law and policy, which was signed in 2016 and reflects the common interests of our economies in developing competition.

Active cooperation of the competition authorities of the BRICS countries continued in 2019.

While developing cooperation in the BRICS format, the FAS Russia sets itself the task of finding the maximum number of areas of interaction and further being in a constant dialogue in order to discuss priority issues, exchange experience in these areas, develop joint solutions to integrate markets and promote fair competition rules in the BRICS markets, especially socially significant ones.

In 2019, the FAS Russia began work to extend for an indefinite period the Memorandum of Understanding between BRICS countries on cooperation in the field of competition law and policy, signed for the period of four years on May 19, 2016 in St. Petersburg.

For this purpose, the FAS Russia developed a Declaration of the Heads of BRICS Competition Authorities on the Extension of the Memorandum, which was approved by the Russian Foreign Ministry and sent to all BRICS competition authorities.

The Memorandum was extended in 2020 for an open-end period⁴².

In addition, in 2019, two meetings of the BRICS Coordination Committee on Antimonopoly Policy (hereinafter – BRICS Coordination Committee) were held (June 6 in St. Petersburg as part of the St. Petersburg International Economic Forum, September 18 in Moscow as part of the VI BRICS Competition Conference).

The meetings of the BRICS Coordination Committee in 2019 were dedicated to summing up the results of the ten-year cooperation of regulators, as well as building an agenda for joint activities for the next period and discussing new initiatives of BRICS competition authorities.

VI BRICS International Competition Conference 2019

Throughout 2019, the FAS Russia carried out active work on the information content of the Conference program together with all BRICS competition authorities and based on their suggestions.

In addition to close interaction with the international community, the FAS Russia actively worked on the preparation and organization of the Conference with the

⁴² <https://en.fas.gov.ru/international-cooperation/brics/concluding-documents/>

interested federal executive authorities of the Russian Federation and the Moscow Government.

The result was successful hosting on September 16-19, 2019 one of the main events of this year in Moscow – the VI BRICS Competition Conference⁴³ under the leitmotif "10 years of cooperation between BRICS competition authorities: results and prospects"⁴⁴.

The Conference was attended by over 500 participants from 30 countries (among the participants of the Conference were Heads of foreign Competition Authorities, influential international organizations and integration associations (OECD, UNCTAD, WTO, VIPO, EU), Heads and Deputy heads of legislative, executive and judicial authorities of the Russian Federation, professors of leading educational institutions such as the University of Chicago Booth School of Business, Lomonosov Moscow State University, HSE-Skolkovo Institute for Law and Development, University of Hong Kong, Indiana University Bloomington, European University Institute & CEPR, and many others).

Within the framework of the Conference, 3 plenary sessions and 4 sessions were devoted to various issues of the development of competition in the BRICS countries, as well as meetings of the BRICS Coordination Committee on Antimonopoly Policy and BRICS Working Groups for the research of competition issues in socially important markets (food, pharmaceutical, digital technologies, automotive market).

During the meeting of the BRICS Working Group for the Research of Competition Issues in the Automotive Markets, apart from the current situation in the markets of the BRICS countries, a plan for the preparation of a joint study of the BRICS competition authorities was discussed. The coordinator of this work is the Competition Commission of India (*in accordance with the decision taken at the meeting of the Coordination Committee, the Competition Commission of India together with the Competition Commission of South Africa are co-chairs of this Working Group*). The presentation of the first draft of this study is planned for 2020.

Within the framework of the meeting of the BRICS Working Group for Research of Competition Issues in the Digital Markets, the first joint report of the BRICS competition authorities was presented – "BRICS in the Digital Economy: Competition Policy in Practice". During the meeting, the participants noted the very fruitful joint work aimed at improving the national legislation of the BRICS countries, as well as converging the approaches on regulation and law enforcement practice in digital markets.

The meeting of the Working Group for Research of Competition Issues in the Food

⁴³ <https://brics-icc-2019.org/en/>

⁴⁴ <https://en.fas.gov.ru/press-center/news/detail.html?id=54333>

Markets was devoted to discussing the new challenges facing competition authorities in ensuring fair competition in the food market. The participants shared their experience in conducting investigations and reviewing M&A's in this market, jointly identified important issues for further discussion and develop a concept for the future activities of the Working Group.

Within the framework of the meeting of the BRICS Working Group for Research of Competition Issues in the Pharmaceutical Markets, participants discussed issues of fair pricing in the medicines circulation markets, in particular, the relationship between the volume of generic production and the price level. The speakers paid particular attention to discussing the issue of finding a balance between antimonopoly regulation and compulsory licensing of intellectual property rights in the BRICS pharmaceutical markets.

During the meeting of the BRICS Coordination Committee on Antimonopoly Policy, in addition to the ongoing work carried out within the BRICS Working Groups for the research of competition issues in socially important markets, a number of new initiatives of the BRICS competition authorities to further develop cooperation in a five-sided format were also discussed, namely:

- 1) initiative on development of Digital Economy Guidelines;
- 2) initiative on creation of BRICS Working Group on Exchange Trade (proposal of the FAS Russia);
- 3) initiative on creation of a Center for competition experts training of the BRICS countries on the basis of the FAS Russia Center for Education and Methodics in Kazan (proposal of the FAS Russia);
- 4) initiative on establishment of anticartel contact group, which will be composed of BRICS competition officials (proposal of the South Africa).

These initiatives were positively assessed by all BRICS competition authorities.

In addition, during the Conference, the BRICS Competition Law and Policy Centre presented a report on new approaches to protecting competition in the digital economy.

Following the Conference, the Heads of the BRICS competition authorities signed a Joint Statement, which sets out their intentions to strengthen and further develop cooperation between the association's antimonopoly regulators. In accordance with the Joint Statement, the Heads of BRICS competition authorities also express their intention in 2020 to extend the Memorandum of Understanding between the BRICS Competition Authorities on cooperation in the field of competition law and policy for an indefinite period, as well as to hold the next VII BRICS Competition Conference in 2021 in People's Republic of China.

In addition, during the Conference the following international agreements were signed:

- Program of cooperation for 2020-2021 between the FAS Russia and the Administrative Council for Economic Defense of Brazil, which will contribute to the further development of cooperation in various formats, including in terms of the exchange of information, as well as conducting joint investigations when considering cases of violation of antimonopoly legislation;
- Memorandum of Understanding between the FAS Russia and the State Administration for Market Regulation of the People's Republic of China on the implementation of the Agreement between the Government of the Russian Federation and the Government of the People's Republic of China on cooperation in the field of combating unfair business practices and antimonopoly policy (2020-2021).

BRICS Competition Law and Policy Centre

In 2019, the FAS Russia continued to cooperate with BRICS partners within the BRICS Competition Law and Policy Centre (hereinafter – BRICS Competition Centre).

In 2019, activities of the BRICS Competition Centre were aimed at conducting research on competition issues in key socially significant markets that are of great importance for all BRICS countries, such as food, digital economy and pharmaceuticals. These areas correspond to the needs of the BRICS antimonopoly authorities, which have identified these topics as priorities.

In 2019, BRICS Competition Centre continued cooperation with leading global scientific organizations and bring in to its work world famous experts in the field of competition law and policy.

Some of the main partners of the BRICS Competition Centre are Centre for Law, Economics and Society of University College London (UCL), University of Cape Town, University of Johannesburg, Consumer Unity & Trust Society of India (CUTS International), Shanghai Jiao Tong University, Insper University and Getuliu Vargas University (FGV).

The BRICS Competition Centre provided significant methodological and analytical support to the BRICS competition authorities in the framework of the study of food and digital markets. International scientific teams operating at the BRICS Competition Centre, taking into account the needs of the BRICS competition authorities, prepared two comprehensive academic reports: Report on the Global Food Chains in the BRICS Countries and the Report on the Development of Competition in the Digital Age (presented at the VI BRICS Competition Conference in Moscow). In addition, the provided methodological best practice were used by the BRICS antimonopoly authorities when considering in 2019 a number of antitrust cases and global mergers in socially significant markets of the BRICS countries.

Practical cooperation

In 2019, the FAS Russia continued cooperation with its BRICS colleagues within the framework of existing mechanisms: exchange of experience and information, cooperation on specific cases, organization of consultations and seminars, as well as joint investigations of international cases on violation of antimonopoly legislation with cross-border effects and analysis of global transactions of economic concentration.

An important example of cooperation between BRICS competition authorities in 2019 when considering global economic concentration transactions were consultations in the Siemens/Alstom case.

The consultations were carried out on the basis of waivers of confidentiality received from companies, which made it possible to fully exchange confidential information and comprehensively discuss these global transactions.

In addition, in 2019, consultations with BRICS colleagues were held on such major cases as GSK/Pfizer, Avon/Natura, Taceda/Shire and Abbvie/Allergan.

Investigation of cross-border cartels has also become an important area of cooperation between BRICS competition authorities, including consulting on the identification and suppression of cross-border cartels in the automotive sector (anticompetitive agreements both between headquarters and OEMs and between OEMs and unauthorized dealers). Further discussions are planned for 2020, including within the BRICS Working Group for the Research of Competition Issues in Automotive Markets.

In addition, as one of the steps to expand practical cooperation in the implementation of law enforcement, in pursuance of the agreements signed by the Heads of the BRICS competition authorities at the meeting of the BRICS Coordination Committee (September 18, 2019), the FAS Russia, together with its BRICS colleagues, established the BRICS Contact Group on Cartels, the main objectives of which are to discuss specific cases for conducting joint investigations, as well as to improve existing and develop new mechanisms for identifying and suppressing anticompetitive agreements.

BRICS competition authorities have reached an agreement on the work of the BRICS Contact Group on Cartels by conducting joint phone consultations and face-to-face meetings (so-called "missions") at the level of heads and experts of international and anti-cartel divisions of BRICS competition authorities with the involvement of case handlers and, if possible, developers of special programs and algorithms for identifying digital cartels.

On November 21, 2019 as part of the activities of the BRICS Contact Group on Cartels, the first mission of the Administrative Council for Economic Defence of Brazil (CADE) visited the FAS Russia. The meeting was attended by employees of

international and anti-cartel departments of the FAS Russia and CADE, as well as developers of digital projects for identifying cartels in Russia and Brazil.

During the bilateral meeting, the participants discussed in detail the screening programs used by departments to identify anti-competitive agreements, clearly demonstrating the technical details of the work of the Russian "Big Digital Cat" project and the similar Brazilian project "Cerebro", which has been used by the CADE for several years in order to identify bid rigging. The participants of the meeting also discussed technical issues of fixing and protecting important information accumulated using the above screening programs.

Part 5. Competition advocacy

The FAS Russia continues to strengthen its position as one of the most open Russian authorities. New Information Policy Concept was developed regarding international community to raise awareness among various groups of stakeholders (government, courts, business community, citizens, scientific community) about the functions and principles of the FAS Russia. The main activities of the FAS Russia within the framework of the Concept are the analysis of global and regulatory competitive systems, cooperation with specialized international journals and news services, participation in international research projects, activities on the platforms of embassies and trade delegations of the Russian Federation abroad, activity in the Internet and foreign media space.

The FAS Russia has collegial bodies⁴⁵ that analyze and review materials on the study of the practice of applying antimonopoly legislation, provide Guidelines on its application, review the decisions and instructions of the territorial bodies of the FAS Russia on cases of violation of antimonopoly legislation.

Experts of the FAS Russia, representatives of federal executive bodies, executive bodies of subjects of the Russian Federation, business unions, non-profit organizations, public associations and scientific organizations take part in meetings of FAS collegial bodies.

Thus, the FAS Russia has the following collegial bodies: the Methodological Council⁴⁶, the Methodological Council on Tariff Regulation⁴⁷, the Competition Council (Public

⁴⁵ https://fas.gov.ru/pages/new.fas.gov.ru/pages/kollegialnie_organii (Russian version only)

⁴⁶ <https://fas.gov.ru/councils/metodichesky-soviet> (Russian version only)

⁴⁷ <https://fas.gov.ru/tags/175> (Russian version only)

Advisory Council)⁴⁸, the Commodity Markets Commission⁴⁹, Research-and-Methodological Council⁵⁰, the Non-Profit Partnership "Market Council"⁵¹, etc.

The FAS Russia has 26 expert councils on key markets⁵². The Expert Councils include market participants, representatives of non-profit associations and regulatory authorities. It allows the FAS Russia to fairly assess the situation in the relevant markets and increases the transparency of its decisions.

In addition, the FAS Russia in accordance with the Law on Protection of Competition annually submits a Report on the state of competition to the Government of the Russian Federation. On August 29, 2019, the Head of the FAS Russia presented a Report on the state of competition for 2018⁵³. The main topic was the "National Plan for the Development of Competition as the Basis for the Development of the Russian Economy". The Report fully outlines existing problems in various markets, describes market development trends, contains proposals for the development of competition in certain industries. The state of competition in the Russian Federation was assessed not only by the antimonopoly body, but also by civil society institutions, federal executive bodies, and the Central Bank.

5.1. Exchange Committee under the FAS Russia

In order to develop organized exchange trade in commodity markets and register off-exchange transactions, the FAS Russia together with the Federal Tax Service of Russia and the Bank of Russia concluded an agreement on cooperation in developing commodity markets and creating an Exchange Committee⁵⁴.

Starting from 2015, meetings of the Exchange Committee in the FAS Russia are held on a weekly basis with participation of the representatives of interested federal executive bodies, market participants, including large oil companies, non-integrated oil companies, infrastructure organizations (stock exchanges) and expert organizations.

At the meetings of the Exchange Committee, participants review the current situation on the markets of oil, petroleum products, gas and coal, agricultural products, mineral fertilizers, wood and articles of wood, chemicals and petrochemicals, take measures to develop and improve exchange trading, give recommendations to market participants aimed at preventing possible violations of antimonopoly legislation.

⁴⁸ [http://fas.gov.ru/pages/councils-list/sovet-po-konkurenczii-pri-fas-rossii-\(obshhestvenno-konsultativnyj-sovet\)/](http://fas.gov.ru/pages/councils-list/sovet-po-konkurenczii-pri-fas-rossii-(obshhestvenno-konsultativnyj-sovet)/) (Russian version only)

⁴⁹ https://fas.gov.ru/councils/komissiya_po_tovarnym_rynkam (Russian version only)

⁵⁰ <http://nms.fas.gov.ru/> (Russian version only)

⁵¹ <http://www.en.np-sr.ru/en/srnen/index.htm>

⁵² <http://en.fas.gov.ru/about/what-we-do/stakeholders-engagement/>

⁵³ https://fas.gov.ru/documents/type_of_documents/documenty_doklady (Russian version only)

⁵⁴ <http://en.fas.gov.ru/about/what-we-do/stakeholders-engagement/>

Exchange Committee interacts with the Bank of Russia, the Federal Tax Service of Russia, the Ministry of Energy of Russia, the Ministry of Finance of Russia, the Ministry of Economic Development of Russia, the Ministry of Industry and Trade of Russia, the Ministry of Agriculture of Russia, the Ministry of natural resources of Russia, the Federal Forestry Agency, the Federal Agency for State Property Management, FGBU "CDU TEK", exchange platforms, associations and unions of independent market participants ("Russian Fuel Union", "ATI" and others), as well as with other interested participants in the fuel and energy sector.

Exchange trade improves the efficiency of the economy, as well as state antimonopoly, tax and tariff policy.

In May 2019, the Government of the Russian Federation established the action plan for the development of organized trading on commodity markets, which includes formation of mechanisms for promoting and attracting companies to participate in exchange trading, creation of representative indicators of market prices for key commodity positions, the development of exchange trading in the markets of oil, gas, forestry, meat, precious metals and stones, agricultural products, fish products, mineral fertilizers. The chief executive body of the action plan is the FAS Russia. Moreover, the FAS Russia established the plan of measures to promote exchange trading and increase financial literacy of market participants for 2019-2020, which includes all range of advocacy activities.

Exchange trade enables solving a broadest range of problems and issues – from putting things to order and decreasing shadow turnover on some markets to creating preconditions for sustainable development of the economy based on increasing pricing transparency and developing mechanisms for hedging price fluctuation risks. Moreover, exchange prices are themselves indicators of fair prices: in accordance with national competition legislation, the price of a product cannot be considered monopolistically high or low if it is set on the exchange.

More than 400 price indices are regularly published on the exchange, including oil and oil products. For 2019, the annual volume of exchange trading on the market of physical goods in Russia reaches around 1 trillion rubles, on the market of derivatives – about 20 trillion rubles.

Development of exchange trading is an element of the introduction of structural reforms that allow to remove barriers to entry for new players and to create competitive conditions for existing players.

5.2. Measures for the advocacy of competition aimed at identifying and proving anticompetitive agreements

In accordance with the Order of the FAS Russia No. 904/19 of July 3, 2019 on creation of the automated information system for exposing and proving anticompetitive agreements, "Big Digital Cat" – automated screening and scoring program for exposing and proving cartels, which allows automatically through open and closed communication channels to receive and analyze big data in order to systematically identify anticompetitive agreements and form the evidence base – was created. Process of introducing automated information system "Big Digital Cat" into the activities of the FAS Russia and its Regional Offices will continue in 2020.

Implementation of the project includes:

- implementation of measures for timely exchange of information to expose and prove conclusion and (or) implementation of anticompetitive agreements with interested departments according to information security requirements;
- development of mathematical models for the analysis, clustering, indexing of big data necessary to expose and prove the fact of conclusion and (or) implementation of cartels and other anticompetitive agreements;
- development of software architecture, including selection of structural elements and their interfaces, with which the system will be composed, as well as their behavior in the framework of cooperation of structural elements; combining selected structural elements and incorporating them into larger systems;
- development and implementation of a system of specific hardware and software in order to expose cartels or other anticompetitive agreements by continuously automatically monitoring bidding;
- development and adoption of the necessary legal acts governing implementation and software use.

The FAS Russia regularly offers insights into the process of "Big Digital Cat" development at various venues, including international ones (forums, conferences, seminars, etc.) and brings in representatives of the expert community to discuss intermediate results. For example, it was discussed with representatives of foreign competition authorities during the ICN Cartel Workshop, as well as the FAS Russia held consultations with representatives of the Administrative Council for Economic Defense of Brazil and representatives of the scientific community.

85% of anticompetitive agreements exposed by the FAS Russia are related to bid rigging. Experts estimate damage to budgets at all levels from the activities of cartels and other anticompetitive agreements as approximately 2% of the GDP. In addition, anticompetitive agreements are highly latent violations of the law - according to experts, the latency level of such agreements is equal to 99.9%.

The "Big Digital Cat" helps to ensure the competitiveness of data-based markets. The introduction of appropriate software can significantly increase the transparency of

procedures during state and municipal procurement and will lead to a crucial increase in budget savings by reducing the cartelization of the economy.

In addition, development and wide discussion of the system led to the creation of a number of commercial products aimed at identifying suspicious activity in the activities of business entities in order to prevent violation of antimonopoly legislation.

Introduction of the automated system "Big Digital Cat" will help to obtain the required amount of data through closed communication channels and analyze it for compliance with the specified criteria. Thus, the authority will be able to efficiently expose cartels and other anticompetitive agreements and form the evidence base.

In 2019, the FAS Russia at its own expense developed the first system module for working with the Unified Information System in Procurement. Currently, work is underway to include measures for the development and implementation of the "Big Digital Cat" in the action plan for the implementation of the federal project "Information Security" under the program "Digital Economy of the Russian Federation".

During the "Big Digital Cat" development, interaction was carried out with the Ministry for Digital Development, Communications and Mass Media of the Russian Federation, Russian Academy of Sciences and other scientific and commercial organizations specializing in digital forensics.

The FAS has created a special website, located at www.anticartel.ru, devoted to providing information about the dangers of cartels and how to fight them. A person can find easy-to-read guidelines, ask questions, observe anti-cartel enforcement practice and other relevant features of the Russian legislation. One of the main goals of this project is to bring together all Russian anti-cartel enforcement practices, to sum up foreign experience and to create a unified useful database.

Currently, the FAS takes active action in formalizing a marker system in the leniency programme. Related drafts of legal documents have been developed. In future, a special FAS Regulation will be adopted on this matter, which describes:

- prospective benefits for marker applicants of the marker system;
- who has a right to receive a marker;
- what steps should be taken to initiate the process;
- what the requirements for obtaining a marker are;
- when the marker stops being a proposition of the leniency programme;
- the procedure for obtaining conditional options of the leniency programme and what is necessary for this step;
- what the content of the marker should be.

In addition, in 2019 the FAS Russia prepared methodological and analytical materials on the issues relating to identifying and proving anticompetitive agreements:

- 1) Guidance manual "Guidelines for the internal corporate prevention of violations of antimonopoly legislation during unscheduled dawn rides"/under general editorship of Andrey Tsarikovskiy and Andrey Tenishev (Moscow: Branch of the FAS Russia Center for Education and Methodics, 2019, p.64);
- 2) Guidance manual "Methodological recommendations for identifying and proving cartels and other anticompetitive agreements at the auction"/under general editorship of Andrey Tenishev and Anton Teslenko (Moscow: Branch of the FAS Russia Center for Education and Methodics, 2019, for internal use);
- 3) Scientific and practical manual "Restricting Competition: Theoretical and Practical Aspects of Criminal Liability"/under general editorship of Andrey Tsarikovskiy, Andrey Tenishev, Sergey Bochkarev, Anton Teslenko (Moscow: "Delo" Publishing House, RANEPa, 2019, p .240);
- 4) "Evolution of Russian anticartel practice" (Moscow: Branch of the FAS Russia Center for Education and Methodics, 2019, p.21);
- 5) Scientific publication. Monograph. "Anticompetitive regulation in the digital age: how to protect competition in the context of globalization and the fourth industrial revolution" (Moscow: Publishing House of the Higher School of Economics, 2019, p.391).

5.3. Measures for the advocacy of competition aimed at increasing the availability of agricultural subsidies for small businesses

Small enterprises occupy significant share of overall volume of agricultural production, but state support for small agricultural enterprises is lower than for the large ones. It is also related to increasing and improving jobs, since agriculture is a demand generator in related sectors of the economy, providing for the creation of additional jobs.

Small enterprises in this field mainly operate in crop production, where there is a support measure called "decoupled support", which can be provided only to agricultural producers who are classified as small enterprises established at the legislative level.

Agroindustrial complex plays an important role in the economy of the country. In addition, it has a number of social obligations and is a demand generator in related sectors of the economy, providing for the increase of employment opportunities.

It is important to emphasize that small enterprises occupy significant share of the overall volume of agricultural production– they account for about 50% of the total output.

In the framework of the State Programme for Agricultural Development and Regulation of Agricultural Products, Commodities and Food Markets, there are special

programmes to support peasant farm enterprises. However, in 2018 they accounted for only 4.7% of the total budgetary provision for financing the State Programme.

At the same time, access to other state support measures for small agricultural enterprises is significantly lower than for the large ones.

In particular, small enterprises account for less than 10% of the total budgetary provision for such support measure as concessional lending (providing investment and short-term loans at a preferential interest rate), despite the fact that 20% is set as the legislative limit.

In order to promote access to agricultural subsidies for small enterprises, the authority decided to limit the ceiling for average annual income of agricultural producers, which determines their right to receive "decoupled support".

Upon initiative of the FAS Russia, this proposal was incorporated into the Action Plan ("road map") for developing competition in 2018 – 2020 in various sectors of the economy of the country and transition of particular spheres of natural monopolies from the state of natural monopoly to the state of a competitive market, approved by the Government.

Following that, the authority officially delivered its position to other departments, as well as to the Government, for the purpose of further work on this issue and introduction of amendments to the State Programme for Agricultural Development and Regulation of Agricultural Products, Commodities and Food Markets.

Decree of the Government of the Russian Federation No. 1573 of November 30, 2019 amended the State Programme for Agricultural Development and Regulation of Agricultural Products, Commodities and Food Markets.

Small enterprises operating in the field of crop production were guaranteed the receipt of subsidies at the fixed rate of the total budgetary provision for financing the State Programme for Agricultural Development and Regulation of Agricultural Products, Commodities and Food Markets, which contributes to the support and development of competition in this area of the agro-industrial complex.

It is expected that the event will help to significantly up to 3 times increase the level of support of agricultural small businesses in the country.

5.4. Measures for the advocacy of competition aimed at elimination of banking roaming

Elimination of banking roaming, which is a trans-regional discrimination of banking services consumers, expressed in the establishment by certain credit organizations of a higher commission for performing operations on trans-regional money transfers between accounts of individuals opened in a single credit institution in relation to intra-regional transfers.

Consumer complaints, indicating the collection by certain banks of increased commissions for transfers to the accounts of relatives and friends opened in another territorial unit of one bank, compared with intra-regional ones, indicated geographical barriers to money transfer on the territory of the country.

Branches and units of a bank make up a single bank structure and money transfers between accounts in different territorial units are regular internal transfers. When making an intra-bank transfer between different territorial areas, the bank does not create added value compared to transfers within the same territorial area and does not provide the consumer with additional services. Establishment of various payment depending on the territorial factor results in inter-regional discrimination of consumer.

Trans-regional consumer discrimination arising from setting various payments by credit organizations for money transfers between bank accounts of individuals opened in one credit organization, depending on the location of the transfer recipient (within the Russian Federation), leads to:

- money movement restriction in the financial market of the state due to the geographical barriers;
- discriminatory tariffication practices that infringe interests of the consumer;
- low attractiveness of banking services for end consumer, which limits the development of non-cash payments;
- lack of motivation for credit organizations to optimize their business models and business processes, including in terms of the applied technological solutions for the most complete satisfaction of customer needs.

Strategy for advocacy:

- conducting a study of the conditions for making money transfers from bank accounts of individuals within the framework of the implementation of the Road map;
- collection of actual data on tariffs applied by banks;
- need to eliminate trans-regional discrimination revealed as a result of the study, for discussion by the interdepartmental working group on the development of competition in the financial markets under the competition authority, as well as its subgroups where authorities, the Central Bank, expert and business community were involved;
- Report describing the problem and solution to the Government of the state - an order to develop proposed legislative changes was received;
- posting of the draft national law on amending national legislation on banks and banking activities (hereinafter - the "Draft") - public discussions and independent anti-corruption expertise were held;
- ensuring approval of the Draft with the Ministry of Finance and the Central Bank;
- ensuring the introduction and approval of the Draft in the Government of the

- state, as well as the adoption of the Draft by its Federal Assembly;
- media advocacy of the adopted legislation.

In cooperation with the Ministry of Finance of the Russian Federation, the Central Bank of the Russian Federation, representatives of the expert and business community, on December 29, 2018, the FAS Russia submitted a Report to the Government of the Russian Federation on the creation of equal conditions for money transfers from bank accounts of individuals to accounts of third parties open in both one and various credit organizations, which was prepared as part of the implementation of Paragraph 7 Section XIV of the Road map on the development of competition in sectors of state's economy and emphasizes the need for legislative consolidation of the principles and rules for the formation of a commission in the banking transfer segment, for which the bank commission for the implementation of intra-regional and trans-regional P2P money transfers for comparable categories of transfers shall be equal regardless of the place of sender's and recipient's accounts (within the country).

In order to eliminate inter-regional discrimination, legislative amendments were developed and adopted (Federal Law No. 434-FZ of December 16, 2019 "On Amendments to Article 29 of the Federal Law "On Banks and Banking Activities"), which secured requirement of inadmissibility of establishing various commissions for inter-regional transfers in relation to inter-regional transfers between individual bank accounts opened within the same bank.

Federal Law No. 434-FZ of December 16, 2019 "On Amendments to Article 29 of the Federal Law "On Banks and Banking Activities" comes into force upon expiration of 180 days from the date of official publication, which provides the transition period necessary for banks to optimize and bring tariffs in line with requirements.

The initiative to amend the legislation was jointly developed by the antimonopoly authority, the Ministry of Finance with the participation of the Central Bank and supported by the Government.

According to the analyzed international practice, three main approaches to regulation were identified:

- soft regulation: free tariffication of bank transfers (for example, Singapore, Hong Kong);
- middle option: regulation of pricing principles rather than the establishment of quantitative restrictions (for example, the European Union);
- tight regulation: the establishment of quantitative restrictions on the size of the commission (in particular, India and China, where there are discrete restrictions on commissions in absolute terms).

Taking into account the peculiarities of relevant banking services market, the experience of the European Union was taken as the basis - regulation of the principles

of tariff formation with the right of banks to independently determine the size of the commission.

The dynamics of the use of payment cards shows the growing interest in the non-cash segment: by the second quarter of 2018, the volume of money transfers exceeded 7 trillion rubles, their number – 1 billion transactions.

The research has shown that despite the fact that most banks do not have commission for intra-bank transfers, number of banks charge commission for trans-regional transfers, the amount of which reaches 1.5% and the maximum value is at a high level (up to 1250 rubles).

Estimated costs of consumers exposed to trans-regional discrimination in 2018 can reach up to 6 billion rubles.

Other advantages of advocacy of competition in this sphere:

- ensuring freedom of money movement in the financial market of the country;
- development of non-cash payments, which exceeded 50% of all payments made in 2018, by increasing the banking services attractiveness;
- elimination of discriminatory tariffication practices that infringe interests of consumers;
- motivation of banks to optimize business models and search for technological solutions to meet customer needs.

Thanks to the advocacy measures introduced by the FAS Russia, it was possible to achieve such competitive results as protection of citizens' interests from trans-regional discrimination by prohibiting the establishment of various commissions for a credit organization when conducting money transfer operations between individuals' bank accounts with this credit organization, due to opening of these bank accounts in different separate units (internal structural units) of the credit organization.

5.5. Measures for the advocacy of competition aimed at reformation of unitary enterprises in Russia

State-owned enterprises and state aid do not always lead to increased competitiveness of the sector.

The FAS Russia believes that state-owned unitary enterprises in competitive markets adversely affect competition and lead to monopolization at this markets due to granting unreasonable privileges to state-owned enterprises.

When a significant number of dissimilar, unrelated objects are under the jurisdiction of unitary enterprises, in most cases it is obvious that such enterprises do not carry out any core business, except for leasing the corresponding objects.

The FAS Russia believes that liquidation of state and municipal unitary enterprises in all competitive sectors of national economy is one of the necessary measures to eliminate excessive state regulation.

The disadvantages of unitary enterprises include low labor productivity of unitary enterprises (an average of 4.5 times that of employees of organizations of other legal forms), "protected demand" for the products of the enterprise, additional opportunities for its capitalization by the property owner, as well as the impossibility of acquisition of inefficient enterprises, the lack of market signals for changing an ineffective management team and the low efficiency of bankruptcy procedures for unitary enterprises.

All this excludes the possibility of market control of the enterprise and negatively affects competition.

In addition, the FAS Russia revealed numerous facts of customers abandoning the application of the provisions of the national legislation on the contract system in the procurement for state and municipal needs by transferring budgetary funds in the form of subsidies to subordinate unitary enterprises for the purchase of goods, work, and services for the needs of the customer, including in competitive markets (for example, construction work, the purchase of medicines and medical devices).

Most of the unitary enterprises in the country work in areas with developed competition: heat supply, water supply, sanitation, housing management, trade and the provision of services. At the same time, as of January 1, 2019, 16,867 unitary enterprises were registered, which is 49% more compared to the data for January 1, 2013.

In carrying out the industrial policy of the state, the competition authority must ensure the implementation of progressive changes in the structure of industrial production without harm to competition.

The transfer of property to a unitary enterprise impedes the development of competition, since it creates such an enterprise preferential conditions for obtaining state or municipal property for temporary possession (use) and deprives others engaged in similar economic activities of the opportunity to obtain rights to these objects and enter the relevant product market.

The features of legal form and consolidation of property determine the inefficiency of unitary enterprises, including on account of the lack of effective corporate control (boards of directors with independent directors, risk management systems, etc.), and "guaranteed" demand for products does not contribute to increased productivity labor and innovative development of such enterprises.

The participation of unitary enterprises in economic activity has the most negative impact on competition in local markets, and their reduction will help protect

competitive markets from monopolization and more effectively implement the state industrial policy.

In this regard, in cooperation with the Ministry of Construction, Housing and Utilities of the Russian Federation, the FAS Russia has developed a draft law⁵⁵ on prohibiting the activities of unitary enterprises in competitive markets and submitted it to the Government of the Russian Federation in order to further study this issue and amend the Federal Law "On State and Municipal Unitary Enterprises" and the Federal Law "On Protection of Competition"⁵⁶.

The draft law prohibiting the activities of unitary enterprises in competitive markets was developed at the initiative of the FAS Russia in pursuance of the provisions of the National Plan for the Development of Competition in the Russian Federation for 2018 - 2020, approved by the Decree of the President of the Russian Federation No. 618 of December 21, 2017.

In accordance with the amendments to the Federal Law "On State and Municipal Unitary Enterprises" and the Federal Law "On Protection of Competition", the liquidation or reorganization of existing unitary enterprises should be completed by 2025.

Advocacy of this project has been going on for five years. The FAS Russia carried out a large-scale work to highlight the importance of liquidation or reorganization of existing unitary enterprises in the Federation Council and the State Duma, at meetings with the governors of all regions of the Russian Federation, regularly published information on the progress of work on this project in the media and on the official website of the FAS Russia.

5.6. Measures for the advocacy of competition aimed at abolishing roaming in the Russian Federation⁵⁷

Decree of the President of the Russian Federation No. 618 of December 21, 2017 "On the main directions of state policy for the development of competition" underlines necessity of eliminating unreasonable difference in the rates for mobile communications services when traveling across the territory of the Russian Federation (roaming).

The FAS Russia carried out antimonopoly investigations against operators of the "Big Four" for establishing and maintaining monopoly high prices for communication services in national roaming.

⁵⁵ <https://sozd.duma.gov.ru/bill/554026-7> (Russian version only)

⁵⁶ <http://en.fas.gov.ru/press-center/news/detail.html?id=54651>

⁵⁷ <https://en.fas.gov.ru/press-center/news/detail.html?id=54098>

Elimination of roaming actually led to a significant reduction in the cost of communication services when traveling across the territory of the Russian Federation. Depending on the services, cost reduction was on average 2 – 10 times across operators for subscribers in networks of other communication providers.

Thus, the cost of voice connection now is on average 2 rubles/min against the previous 9 – 10 rubles/min that subscribers had to pay. The cost of sms-messages decreased to 2 rubles per one sms from 3.90 – 4.90 rubles. The cost of data transmission dropped down from 9.90 to 1 – 3 rubles per Mb.

Thus, according to the results of the analysis of measures taken to abolish national roaming, there has been a significant increase in the consumption of communication services (voice conversation, mobile Internet), which leads to an increase in revenues of telecom operators, as well as to an increase in subscriber loyalty.

In July 2017, the FAS Russia issued a warning to four operators on elimination of intra-network roaming. Before August 2017, telecom operators had to change all existing tariff plans and exclude from them unjustified difference in prices when a subscriber was in a "guest" region.

"Intra-network roaming" is increase in the prices for communication services in comparison with the conditions of the home region, if the subscriber left his home region in the Russian Federation, while remaining in the network of his own communication operator.

In connection with the failure to comply with the warnings issued to MegaFon and MTS on March 5, 2018, and warning issued to VimpelCom on March 12, 2018, cases on violation of antimonopoly legislation were initiated.

In course of the case consideration, telecom operators MegaFon, VimpelCom and MTS announced voluntary elimination of violations of antimonopoly legislation.

Prices for SMS, data and outgoing voice connections while traveling were set at the same level as in the home region. Moreover, the operators have made changes to the "package" tariff plans, according to which, when traveling outside the home region, packages of minutes, SMS and data transfers are consumed from the prepaid package. In August 2018, telecom operators announced the abolition of fees for incoming voice connections when traveling across Russia.

Given that the operators voluntarily eliminated violations of antimonopoly legislation, remedy to eliminate the violation was not issued.

T2 Mobile executed the FAS Russia warning completely by August 31, 2018.

As a result of all the activities for the "Big Four" subscribers when traveling outside the home region and being in the network of their telecom operator, communication services are charged according to the tariffs of the home region, and on "package" tariff

plans when traveling outside the home region, the volume of services is consumed from the volume services included in the tariff plan.

At the same time, since antimonopoly response measures can only be applied to telecom operators occupying a dominant position – operators of the "Big Four", in order to spread the principle of providing telecom services "in roaming - like at home", it was necessary to adopt a corresponding federal law.

On June 1, 2019, Federal Law No. 527-FZ of December 27, 2018 came into force "On Amendments to Articles 46 and 54 of the Federal Law "On Communications", which secured the abolition of charging fees for incoming voice connections throughout the Russian Federation, as well as equal conditions for tariffication of communication services in the home region and when traveling across the territory of the Russian Federation in the communication network of your operator.

During the implementation of this project, the FAS Russia put a lot of effort into interaction with both government agencies and other stakeholders in order to ensure adequate regulation of the relationship between operators in relation to national roaming tariffs, as well as to eliminate the abuse of dominant positions by companies via charging fees for roaming from your own subscribers from different regions.

5.7. Measures for the advocacy of competition aimed at elimination of unjustified advantages for organizations that accept payments for utility services, and ensuring the development of price competition in the provision of such services

Currently, some utility providers and property management companies include the cost of remittance services as justified expenses when calculating their tariffs.

This happens due to the conclusion by these organizations agreements with payment institutions, which contain a condition on not taking commission when making payments.

Such agreements are concluded with a limited number of institutions, which forces consumers to address those institutions where there is no need to pay a commission, which leads to an unjustified redistribution of demand in the payment services market.

If a citizen applies to an institution with which no agreement has been concluded, the commission will be taken from him twice: (1) directly when paying for utilities and (2) as part of the corresponding tariff.

At the same time, some citizens pay for utility services directly at the cash desks of utility providers and property management companies and, if the commission for the provision of payment services is included in economically justified expenses, they actually pay for the services not provided to them.

The main objectives of the event were: (1) elimination of unjustified advantages for organizations that accept payments for utility services, and ensuring the development

of price competition in the provision of such services; (2) excluding the possibility of a situation when consumers pay commission twice when paying for these services or pay for services that were not actually provided to them.

On July 29, 2017 at a meeting of the Methodological Council of the FAS Russia on tariff regulation, formed in accordance with the order of the FAS Russia No. 615/17 of May 10, 2017, it was decided to prohibit the inclusion in economically justified costs (expenses) of organizations carrying out a regulated type of activity (regulated organizations), the costs of utility consumers for payment services provided by banks and other organizations in accordance with the legislation of the Russian Federation, when paying for utilities.

Several Departments of the FAS Russia were involved in the work on this initiative. In addition, meetings of the Methodological Council on Tariff Regulation were held with the direct participation of representatives of interested federal executive bodies (Ministry of Natural Resources of Russia, Ministry of Construction of Russia, Ministry of Energy of Russia, Ministry of Finance of Russia, Bank of Russia), market participants, including large companies and expert organizations.

In framework of implementation of this event, the following strategy was developed:

- 1) Raising the issue of the need to establish a ban on the inclusion in economically justified costs of organizations carrying out a regulated type of activity, costs of consumers of utilities for payment services provided by banks and other organizations in accordance with the legislation of the Russian Federation, when paying for utilities, for consideration by the Methodological Council;
- 2) Inclusion of the corresponding event initiated by the FAS Russia into the plan for the development of competition approved by the Government of the Russian Federation, which made it possible to involve interested agencies and the Bank of Russia in this work;
- 3) Publication on the federal portal the draft regulatory legal acts of the draft resolution of the Government of the Russian Federation "On Amending Certain Acts of the Government of the Russian Federation" (hereinafter –Draft) for its public discussions and independent anti-corruption expertise, as well as sending the Draft for approval to the interested authorities and the Bank of Russia;
- 4) Conducting a consensus meeting on the Draft in order to resolve differences, adopting a relevant resolution;
- 5) Publication of the Resolution No. 1164, its advocacy in the media.

Due to the work carried out, the Decree of the Government of the Russian Federation No. 1164 of September 5, 2019 "On Amendments to Certain Acts of the Government of the Russian Federation" (hereinafter – Decree No. 1164) prohibits the inclusion by

organizations engaged in a regulated type of activity (regulated organizations) in economically justified costs (expenses), the costs of consumers of utilities for payment services provided by banks and other organizations in accordance with the legislation of the Russian Federation.

Adoption of the Decree No. 1164 made it possible to increase the transparency of the procedure for paying for utilities, which helps to reduce social tension, since many citizens were not aware of the amount of commission charged, which in some cases reached 7% of the total payments (with average 1 - 2%), and the presence of a commission in general.

Consumers of housing and utility services are more than 140 million people (in addition to the industrial sector), that is the entire population of the country, and the annual turnover of this industry was 5.1 trillion rubles⁵⁸. Market size of the commission charged for the payment is 1 - 2%. Considering this, it can be concluded that the work carried out by the FAS Russia has created conditions for the development of competition in the market of payments for housing and utility services in the amount of 51 to 102 billion rubles.

Introduction of this ban will stimulate organizations that provide payment services, in a bid for the consumer, to reduce the cost of providing their services, improve their quality, as well as the convenience of their provision, including through the creation of various online services for paying for utilities. This, in turn, will stimulate the consumer to choose more profitable and convenient methods of paying for utility services.

Since housing and utility services are a particularly important component for ensuring the living of citizens, the organization of payments for such services has a broad social focus. According to the Analytical Center under the Government of the Russian Federation⁵⁹, among the poorest segments of the population, payment for housing and utility services in 2016-2018 amounted to 51-60% of all expenses for services. Taking this into account, the exclusion of unreasonable commission costs from the total amount of expenses for housing and utility services helps to reduce social tension and the increasing the well-being of citizens.

5.8. Policy on information openness

In order to improve the effectiveness of provision of information regarding the activities of the competition authority, implementing the principles of transparency and simplifying access to public information related to the FAS Russia, a new version of the official website⁶⁰ of the FAS Russia was launched in 2017. The new website has become more convenient, more logical and more informative. News of the competition

⁵⁸ According to the Ministry of Construction of Russia:
http://www.minstroyrf.ru/upload/iblock/6ec/24.08.2018_Strategiya.pdf (Russian version only)

⁵⁹ <http://ac.gov.ru/files/publication/a/22334.pdf> (Russian version only)

⁶⁰ <https://en.fas.gov.ru>

authority are also published in real time manner on Twitter, Instagram, Facebook, VKontakte, YouTube, Telegram-channel, as well as in the form of podcasts on iTunes and Sound Cloud.

Another significant source of publicly available information and analytical articles related to the topic of protection of competition in the Russian Federation is the journal "Russian Competition Law and Economics"⁶¹. This journal is enlisted in the leading peer-reviewed scientific journals included by the Higher Attestation Commission of Russia (VAK) in the list of journals recommended for publishing the main scientific results of the candidate and doctoral thesis papers (Russian "Scopus"). Its editorial board includes representatives of the FAS Russia, including the Head of the FAS Russia Igor Artemiev, as well as well-known Russian experts in the field of legal and political sciences.

Representatives of the FAS Russia are also members of the editorial board of the electronic and print journal "Competition and Law"⁶², which prepares analytical materials, including weekly reviews of the development of Russian competition law enforcement.

5.8.1. Work with profile printed and electronic international publications

In 2019, active work continued with the international journal of competition policy and regulation Global Competition Review. Apart from participating in traditional GCR questionnaires, the FAS Russia prepared an article on Russian antimonopoly legislation and policy that was published in the issue dedicated to the European, Middle Eastern and African Antitrust Review⁶³, as well as provided materials for GCR Handbook of Competition Enforcement Agencies and GCR Handbook of Competition Economics. In 2019, 20 publications were published in the GCR on the experience of the FAS Russia.

As a result of the increased activity of the FAS Russia related to foreign media, 46 articles on the activities of the FAS Russia were published (12 articles in Competition Policy International (CPI), 2 in E-concurrence, 12 in Reuters).

In 2019, English-language interviews of the Head of the FAS Russia Igor Artemiev were published in GCR⁶⁴, PaRR and Reorg M&A. In addition, GCR published an English-language interview of the Head of the Anti-Cartel Department of the FAS Russia Andrey Tenishev, and PaRR published an English-language interview of the Deputy Head of the FAS Russia Anatoly Golomolzin.

⁶¹ <https://www.dex.ru/rkpie-journal-english>

⁶² <https://cljournal.ru/eng/>

⁶³ <https://globalcompetitionreview.com/review/the-european-middle-eastern-and-african-antitrust-review/the-european-middle-eastern-and-african-antitrust-review-2019>

⁶⁴ <https://globalcompetitionreview.com/pushing-antitrust-forward-putins-support-interview-igor-artemiev>

International journals of competition policy and regulation, including GCR⁶⁵, PaRR and Reorg M&A, covered the VI BRICS Competition Conference "10 years of cooperation between the BRICS Competition Authorities: results and prospects" (September 16-19, 2019, Moscow) and published more than 15 articles⁶⁶.

In 2019, representatives of foreign media continued to request for the information on various aspects of the FAS Russia activity. In total, 55 requests for information came from the foreign media to the FAS Russia. Requests came not only from international journals, cooperation with which has already become a tradition for the FAS Russia (PaRR, GCR, CPI and Concurrence), but also from specialized media publishing information on global market concentrations (Reorg M&A, Mergermarket, CTFN).

5.8.2. Participation in research projects and educational events

Conference organized by the Association of Corporate Lawyers (RCCA) on the topic "Two sides of the same medal. Corporate control vs Responsibility of the company, shareholders, management" was held on September 26, 2019. Deputy Head of the FAS Russia Andrey Tsyganov shared with the participants main regulatory legal acts that regulate merger review, timing of consideration of applications, obligation to comply with the orders of the antimonopoly authority and consequences in case of non-compliance, as well as the initiatives of the FAS Russia to unify the rules and timing of economic concentration review in different countries, unification of procedures for issuing waivers and the "digital dog" project, which will allow companies to submit applications electronically, while the FAS Russia will be able to analyze big data using artificial intelligence.

The annual conference "Antimonopoly Regulation in Russia - 2019" was organized jointly by the FAS Russia, the Association of Antimonopoly Experts and the Vedomosti newspaper on October 25, 2019. This conference is a key event in the field of antimonopoly regulation in Russia and the CIS. The event brings together representatives of the legislative, executive and judicial authorities, as well as leading lawyers, economists and representatives of corporations to discuss the state of antimonopoly policy and alignment of the competition legislation with the best international standards.

The V Annual International Conference "Antimonopoly Policy: Science, Practice, Education" was organized jointly by the FAS Russia and HSE-Skolkovo Institute for Law and Development on November 19-20, 2019. More than 339 people took part in this event; speakers were 44 leading foreign scholars and experts specializing in the field of competition law and economics.

⁶⁵ <https://globalcompetitionreview.com/brics-report-questions-antitrust-framework-digital-economy>

⁶⁶ <https://globalcompetitionreview.com/putin-competition-priority-brics>

In addition, in 2019 meetings of the Head of the FAS Russia and Deputy Heads of the FAS Russia with governors and regional authorities on the implementation of the National Plan for the Development of Competition in the Regions were held in all constituent entities of the Russian Federation.

As part of educational activities on competition advocacy, regional seminars-meetings with the heads and specialists of the Regional Offices of the FAS Russia, judges and representatives of state authorities of the Russian Federation are held annually in each of the federal districts (Moscow Region, Ivanovo Region, Kaliningrad Region, Kurgan Region, Vologda Region, Chelyabinsk Region and Trans-Baikal Territory).

In addition, the FAS Centre for Education and Methodics in Kazan⁶⁷ and its branch in Moscow⁶⁸ regularly hold educational seminars for representatives of the FAS Russia and the international antimonopoly community. Speakers at these seminars are representatives of the Central Office of the FAS Russia. Seminars include theory and practice aimed at professional improvement and advanced training of employees of competition authorities.

In order to ensure stability and institutional continuity in the framework of competition advocacy, an annual contest of professional skills "My useful initiative" is held annually for the FAS Russia employees. Objectives of the project: 1) development of professional competencies of the employees, retention of the skilled workers through the formation of a comprehensive career development program, which allows future winners and participants to apply for leadership positions; 2) creation of conditions for the development and formation of an existing candidates pool, consisting of professional staff, focused on achieving successful results; 3) accumulation of ideas and initiatives for their further implementation and dissemination of best practices.

For employees of FAS Russia there is an internal web portal. This is a common informational space for the employees of the competition authority. Here you can find the latest news, documents, useful information and access to services, watch broadcasts and recordings of internal events, as well as make use of mechanisms for communication and training.

In addition, more than 50 departments and centers in the field of competition law have already been established in Russian leading higher educational institutions (Lomonosov Moscow State University, National Research University Higher School of Economics, Kutafin Moscow State Law University, Financial University under the Government of the Russian Federation, Saint Petersburg State University, Higher School of Tariff Regulation of the Plekhanov Russian University of Economics). Leading scientists and heads of the FAS Russia and its Regional Offices head departments at these universities. In many universities, the discipline "Competition

⁶⁷ <http://emc.fas.gov.ru/> (Russian version only)

⁶⁸ <http://femcfas.ru/> (Russian version only)

Law" is mandatory for students. This means that all students who receive a law degree already have a basic knowledge of antimonopoly regulation. Earlier for recent graduates adaptation to work took more than 6 months, now this period has been reduced to 1 month.

In 2018, professional standard - "Competition Law Specialist" was approved⁶⁹, the main goal of a competition law specialist is to prevent violations of the antimonopoly legislation of the Russian Federation, reduce the risk of such violations, terminate and suppress them and develop competition⁷⁰.

In order to increase investment attractiveness of the Russian economy and advocate competition, the FAS Russia together with embassies and chambers of commerce undertakes work on organizing consultative meetings with representatives of foreign businesses operating in the Russian Federation. Experts of the FAS Russia discuss distinctions of the Russian antimonopoly legislation and law enforcement, as well hold Q&A session.

In 2019, such meetings were held with the embassies of the China, Iran and the French Chamber of Commerce and Industry.

5.8.3. Winning the Competition Advocacy Contest of the World Bank and the International Competition Network

The FAS Russia became the winner of the competition advocacy awards of the World Bank – International Competition Network (ICN) for 2018-2019 in the nomination "Promoting competitive digital infrastructure, digital platforms and digital finance".

The members of the authoritative international jury recognized the project "Abolishing national and intra-network roaming" submitted to the competition as the winner in this nomination.

Authorities and companies from 50 countries took part in the competition.

The World Bank posted on its website the following commentary on the FAS Russia achievement:

"The Federal Antimonopoly Service of Russia (FAS) conducted an advocacy initiative to map and tackle restrictive regulations and anticompetitive behavior regarding roaming services in the country. Based on its findings, the FAS engaged with both public and private stakeholders to (i) promote adequate regulation for interconnection between operators regarding national roaming charges, as well as (ii) to dissuade firms to abuse dominant positions by charging roaming fees from its own subscribers from

⁶⁹ Order of the Ministry of Labor and Social Development of the Russian Federation No. 625Н of October 9, 2018 "On the approval of the professional standard "Specialist in the field of competition law": <http://publication.pravo.gov.ru/Document/View/0001201811010006> (Russian version only)

⁷⁰ <http://en.fas.gov.ru/press-center/news/detail.html?id=53535>

different regions – including notifying players about a potential illegal conduct or even initiating enforcement cases. As a result, market players voluntarily changed their national roaming practices and dropped prices dramatically: between 2017 and 2018, fees for SMS reduced up to 2.5 times, for voice services up to 5 times, and for internet access up to 10 times. In December 2018, the Federal Law № 527-FZ amending the Federal Law on Communications was issued building on key FAS recommendations".

The FAS Russia has been participating in the competition since 2015. Since then, this is the third victory of the authority, which proves that by interacting with various groups of stakeholders the FAS Russia continues to improve its performance as one of the most open competition authorities in the world.

The awards ceremony took place on May 15, 2019 as part of the ICN Conference in Cartagena, Colombia.

Also in 2019, a number of meetings of representatives of the FAS Russia and the World Bank took place to discuss the Bank's study on creating opportunities for effective competition policy in Russia, as well as the Bank's analytical report on productivity and competition policy in the Russian Federation, prepared following the results of 2019. It should be noted that the FAS Russia on a regular basis assists the World Bank in collecting and analyzing information on Russian competition policy and antimonopoly enforcement in the framework of its reviews and studies.

Part 6. Resources overall

6.1. Annual budget

Maintenance cost of the Central Office of the FAS Russia and its Regional Offices is funded at the expense of funds provided for in the federal budget.

In 2019, the budget of the FAS Russia was equal to 5,6 billion rubles (70 million euros).

6.2. Human resources

Total number of members of staff of the FAS Russia as of December 31, 2019 was 3 504. 1 299 employees worked in the Central Office and 2 205 employees in 84 Regional Offices of the FAS Russia in the constituent entities of the Russian Federation. Out of the total number of the FAS Russia employees, 2 415 are engaged in law enforcement practice related to antimonopoly and tariff regulation (no division), the rest of the employees are involved in procurement and advertising issues.

1950 employees are engaged in antimonopoly enforcement.

The FAS Russia does not have a clear delineation of official duties of employees into "lawyers", "economists" and "others". Therefore, it is possible to discuss the percentage of presence in the competition authority of employees of the three indicated categories

on the basis of data on the higher education: 57% of employees have a law degree, 31% - economics, 12% - other. At the same time, we note that this percentage also includes employees who have two or more degrees (law and economics, law and other, economics and other).