

THE RUSSIAN FEDERATION

(1997)

Introduction

Established in 1990, the State Anti-Monopoly Committee of the Russian Federation pursues its activities in the sphere of competition policies on the basis of the Law of Russian Federation “On Competition and Restrictions on Monopolistic Activities in Commodity Markets” adopted in 1991, as amended and supplemented in 1995 and 1998.

This report reviews the competition legislation in force in Russia, and it contains data on the scale of enforcement as well as examples of cases involving the most typical violations of anti-monopoly legislation.

1. Principal Results of State Anti-Monopoly Committee of Russia Activities in 1997

- *Draft legislative acts were elaborated on the issues of:*

Supplements to and alternations in the Law “On Competition...” in part of the definition of “a group of individuals/entities”;

- *Anti-monopoly agencies found about 1 400 cases of restriction of competition by bodies of executive power (governmental entities), and 585 criminal cases were instituted on the basis of these facts.*

The total sum of fines paid for the violations of anti-monopoly legislation amounted to 3.2 mln. rubles in prices of 1998.

- *The control over the economic concentrations in commodity markets gained still further momentum:*

3 171 applications to acquiring shares in the registered capital of commercial organisations were studied in 1997, which is one fourth above the level of 1996. In 254 cases, the anti-monopoly agencies refused to consent to the acquisitions.

- *The applications to anti-monopoly agencies on behalf of the economic entities seeking protection of their rights against unfair actions of the competitors in the year of 1997 became a stable recurrence:*

There were studied a total of 298 cases involving violations of the part of the anti-monopoly legislation which prohibits unfair competition, 200 of them considered upon applications from the economic entities, and 98 at the initiative of territorial offices of the State Anti-Monopoly Committee of Russia. A total of 184 cases were brought up under the article on unfair competition, with 113 prescriptions issued upon them.

THE RUSSIAN FEDERATION

The anti-monopoly agencies revealed approximately 29 thousand cases of violation of **consumer legislation**; the vast majority of these violations were eliminated on a voluntary basis, and about 2 900 prescriptions were issued under the legislation violation cases.

1.1. Alterations of Legislation on Competition

The new provisions of the Legislation on Competition

In May 1998 there were adopted supplemental provisions to the Law « On Competition... » aimed at providing a more detailed definition of « group of entities » and substantially widening the list of parameters determining the « group of entities ». This will allow more efficient control over economic concentrations in commodity markets.

Within the framework of the continuing effort to deal with the sphere of services provided by natural monopolies, and in order to develop still further the legal basis for a reform of the natural monopolies and of the housing and communal services, the Committee elaborated a draft recommending (model) law « On Local Natural Monopolies » and submitted it to the Government of the Russian Federation.

On February 21, 1998 the Government of the Russian Federation adopted a resolution « On measures to resolve the tasks of state anti-monopoly policies, on demonopolising the economy and developing the competition in commodity markets of the Russian Federation in 1998-2000 ». This document outlines a number of concrete actions on developing the competition in separate commodity markets, in first instance in the sphere of activities of natural monopolies.

Presently the Committee is in the process of considering a new draft of the Law « On Competition... » which provides for a more exact definition of the range of competence of bodies of executive power and of local self-government in pursuing the state anti-monopoly policies, as well as for a stricter responsibility for violations of anti-monopoly legislation. The draft also proposes a notification system for certain agreements, and also deals with the problem of non-co-ordination with anti-monopoly agencies by bodies which are subject to such co-ordination.

State Anti-Monopoly Committee proposals on developing the legislative basis of privatization:

To continue the activities on introducing alternations into the current legislation:

- proposals on holding tenders and auctions, and on transfer of state lots of shares into trust management, in order to secure for the anti-monopoly agencies the opportunities to maintain a preliminary control over the acquisition of lots of voting shares;
- proposals on access of legal entities and of individuals to participation in state tenders and auctions, in terms of practical implementation of the requirements of Article 10, part 1, of the Civil Code of the Russian Federation, i.e. the prohibition on utilizing civil rights for the purpose of restricting the competition, with barring the practices of direct collusion between the participants of the trades;

- proposals on restricting the activities of foreign investors and of the enterprises under the foreign investors' control, on acquiring the shares of Russian enterprises which produce the commodities relevant to maintaining the national security of the Russian Federation.

To adopt measures on reinforcing state control over investors' financial status in order to guarantee the access to the management of the enterprises of the effective proprietors only.

1.2. Elaborating the departmental normative acts.

The State Anti-Monopoly Committee of Russia conducted a fair amount of work together with the High Arbitration Court of the Russian Federation on the issues of dispute settlement practices related to the application of anti-monopoly legislation, including under Articles 17 and 18 of the Law on Competition. On December 18, 1997 the review of such practices was studied and discussed by the Presidium of the High Arbitration Court of the Russian Federation. The materials of the Presidium of the High Arbitration Court of the Russian Federation are duly published.

In 1997 the State Anti-Monopoly Committee of the Russian Federation signed with the Ministry of Justice of the Russian Federation an agreement on cooperation under which there proceeds a mutual exchange of normative acts of the federal bodies of executive power, of the bodies of executive power of the subjects of Russian Federation and of bodies of local self-government which were adopted with violations of anti-monopoly legislation.

Under the Decree of the State Anti-Monopoly Committee of Russia 3 No. 148 of 23 October 1997, an information database on precedents of application of anti-monopoly legislation by the courts of arbitration and by the courts of general jurisdiction is being created in the State Anti-Monopoly Committee of Russia.

The State Anti-Monopoly Committee of Russia is preparing the drafts of new Agreements with federal bodies of power, including with the Procurator General's of the Russian Federation, the State Taxation Service of the Russian Federation and the Ministry of Internal Affairs of Russia.

It is indispensable to elaborate a new procedure of studying cases involving violations of the anti-monopoly legislation, as well as the mechanisms to recover fines from the economic entities as a penalty for violations of anti-monopoly legislation.

1.3. The activities of anti-monopoly agencies on control over the organization and conduct of trading sessions on purchasing the products for the state's needs

Since 1992, anti-monopoly agencies have exercised control over compliance with the requirement of competitiveness in organising and conduct of trading sessions for purchasing products for the state. This work has been executed within a limited number of sectors of the economy - primarily, in the sphere of contract work in construction, including road construction, as well as in purchases of alimentary products for the federal and regional alimentary funds.

Upon issuance of the Decree of the President of the Russian Federation No. 305 of 8 April 1997 "On priority measures to prevent corruption and to reduce budget expenditure on organising purchases of commodities for the state needs", anti-monopoly control over a competitive state purchases was galvanised, and such activities acquired new forms and a systematic character. Following the deployment

THE RUSSIAN FEDERATION

of purchasing campaigns in the regions and in different branches of the economy, the spectrum of activities for anti-monopoly agencies on control over the trading sessions has widened.

The major forms of anti-monopoly control over the organisation and conduct of the trading sessions were as follows:

- examination, coordination and direct participation in the elaboration of normative legal acts regulating the procedure of trading sessions;
- revision of normative legal acts regulating the procedure of trading sessions, which were adopted not in concord with the anti-monopoly agencies;
- participation in elaboration (examination) of qualification and tender documentation, and of the methodological basis for the conduct of competitive trading sessions;
- check-up of the trading sessions' results from the viewpoint of compliance with the norms of the anti-monopoly legislation;
- participation in the proceedings of industry and regional tender commissions in the capacity of competent members, or enjoying the rights of independent observers;
- participation in the sessions of regularly functioning structures of regional administrations in charge of competitive deployment of state orders, or in the proceedings of inter-agency commissions on control over the conduct of trading sessions, in order to react in a timely manner to violations occurring in the process of purchases for the state's needs;
- participation in appealing against the results of trades;
- analyzing the order and practices of commodity purchases for the state's needs implemented by separate state customers;
- compilation of a methodological basis for anti-monopoly control over the organization and conduct of trading sessions;
- analysis and generalization of the anti-monopoly agencies' experience in controlling the organization and conduct of trading sessions.

Analysis of anti-monopoly violations in organisation and conduct of trades demonstrated that the most typical violations were as follows:

- providing without a sufficient ground the privileges to a concrete economic entity or to several economic entities; and
- creating disadvantageous conditions for a concrete economic entity, or to several economic entities.

The anti-monopoly control implemented at different stages of organizing and conducting trades in most cases allowed preventive measures on eliminating substantive violations of the anti-monopoly

legislation, as well as violations of a procedural nature. Summarizing the annual results of anti-monopoly bodies' activities on supervising compliance with the competition rules in the market of state purchases, one can make the following conclusions:

1. A further development of methodology and amelioration of the normative and methodological basis of trading sessions is required to improve on the efficiency of purchases for the state's needs. In particular, the following issues require additional consideration and resolution:
 - inviting small business enterprises to participate in state purchases;
 - lending priority support to commodity producers;
 - strengthening the control over purchases from a single source, over the procedure of termination of trading, and over standard regulation of tender commission procedures.
2. In order to secure effective supervision over compliance with anti-monopoly requirements in the process of organizing and conduct of trading session, it is indispensable:
 - to legally determine the position, role and powers of anti-monopoly bodies in the system of organizing and conducting purchases for the state's needs;
 - to delimit the powers of the State Anti-Monopoly Committee of the Russian Federation and of the Ministry of Economics of Russia on the issues of claiming against the results of trades on the basis of indications of a violation of anti-monopoly legislation;
 - to establish for the representatives of anti-monopoly agencies the right of participation in the proceedings of industry and regional tender commissions;
 - it is important for the anti-monopoly bodies:
 - ⇒ to secure participation of its representatives in the proceedings of the industry and regional tender commissions as competent members or independent observers;
 - ⇒ to analyse the practices of conduct of trades by state customers, laying a particular emphasis upon the procedures of purchases from a single source, or the course of closed trades;
 - ⇒ to effectuate (at the opportunity) anti-monopoly control at all stages of organising and conducting trades, including at the stage of preparing the tender conditions and at the phase of concluding state contracts.

2. Implementation of competition politics

2.1. *Suppression of abuse of the dominant position*

In the year of 1997 the territorial offices considered 1,630 applications on the indications of violation of Article 5 of the Law « On Competition... », and 435 cases were initiated under this Article. Under the provisions of Article 6 there were registered 36 application and 29 cases respectively.

The same period of time also witnessed a substantial augmentation of violations of Article 7 of the Law: 1,368 applications and 585 cases initiated.

The total sum of fines paid for the violations of anti-monopoly legislation amounted to 3.2 million rubles in the prices of 1998.

In 1997 the Committee studied the monopolistic activities of the Russian Joint-Stock Company "Unified Energy System of Russia" in relation to the Joint-Stock Company "Irkutskenergo", and the case was won in the courts. The materials of the case were depicted in the publication "Commentaries on court and arbitration practices", Vol. 4, 1997.

Upon Decree No. 4 of the State Anti-Monopoly Committee of the Russia Federation, 14 January 1997, the Russian Joint-Stock Company « Unified Energy System of Russia » was included into the Register of economic entities possessing a market share in excess of 35 percent. The Russian Joint-Stock Company « Unified Energy System of Russia » considered its placement on the Register as not sufficiently substantiated, and it applied against this decision to the Arbitration court of Moscow, and later to a Court of Appeals. The rulings in both cases were in favor of the Committee.

The victories in the above mentioned cases were of principal significance for the Committee: the authority of the Committee was re-established, for the preceding analogous cases related to the Russian Joint-Stock Company « Unified Energy System of Russia » were lost with the courts; this victory helped overcome the tendency emerging with the courts of arbitration on limiting (contrary to the existing legal norms) the powers of State Anti-Monopoly Committee of Russia regarding the natural monopolies; the provisions of the new edition of the law « On Competition... » related to including a group of entities into the Register, and touching upon the order of determining the dominant position of a group of entities, were applied in practice for the first time. Consideration of the above mentioned issues created substantial methodological difficulties for the representatives of the courts of arbitration, the cases enjoyed wide public response, and were highly praised by legal experts, including those from the High Court of Arbitration.

Upon prescription from the State Anti-Monopoly Committee of Russia the territorial agencies of the Chief State Energy Control Office were withdrawn from the structure of Russian Joint-Stock Company "Unified Energy System of Russia". Thus there was created a precedent of principal significance both for the establishment of competitive conditions, and for guaranteeing security, effective use and transformation of energy, as well as for structural reforms in electric energy sector.

2.2. Control over anti-competition agreements

In 1997 there was not any substantial growth of cases involving violations of Article 6 of the Law of the Russian Federation “On competition and limitation of monopolistic activities in commodity markets”:

- number of applications considered within the framework of general control over compliance with the anti-monopoly legislation - 36;
- number of cases invoked upon the facts of violation of the anti-monopoly legislation - 29;
- number of cases terminated in the process of consideration - 8 (28 percent of the total number of cases invoked);
- number of prescriptions issued - 19 (66 percent of the total number of cases invoked).

From among the number of prescription issued:

⇒ number of executed prescriptions - 18;

⇒ number of prescriptions in the process of execution - 1.

Of the total number of applications considered: 25 percent resulted in legal cases being invoked; 36 percent were turned down for the reason of non-confirmation of information on violations of anti-monopoly legislation; and 39 percent resulted in elimination of the violations before invocation of a legal case.

Simultaneously, there was a growth in the number of cases invoked upon the initiative of territorial offices of the State Anti-Monopoly Committee of Russia: 69 percent of the total number of cases invoked in 1997 were initiated by the territorial offices of the State Anti-Monopoly Committee of Russia as a result of check-ups of the economic entities’ activities, as compared to 36 percent in the year of 1996.

Increased activity of the territorial offices of the State Anti-Monopoly Committee of Russia in the year of 1997 on control over the compliance with the anti-monopoly legislation within the framework of Article 6 of the Law “On Competition...”, is explained by :

- an improved methodological basis for revealing, collecting evidence on and suppressing agreements (coordinated activities) restricting competition, which is associated with preparation and dispatch to the State Anti-Monopoly Committee of draft Methodological Recommendations; and
- holding educational seminars and consultations for the employees of territorial offices of the State Anti-Monopoly Committee of Russia.

The quality of the processing of cases and the proportion of flawless qualification of legal violations has improved: of the invoked cases’ descriptions in possession of the State Anti-Monopoly Committee of Russia, 80 percent of the cases were graded as ”satisfactory”.

THE RUSSIAN FEDERATION

In 1997 the actions by the anti-monopoly bodies of the Russian Federation related to implementing the provisions of Article 8 of the Law of the Russian Federation “On Competition...”, are characterized by the following data:

- Number of applications considered within the framework of general control over the compliance with the anti-monopoly legislation - 61.

From among these applications:

- number of violations eliminated without invoking a legal case - 22 (36 percent of the total number of applications);
 - number of applications to invoke a case which were turned down after consideration - 11 (18 percent of the total number of applications);
 - number of cases invoked - 28 (46 percent of the total number of applications);
- Number of cases invoked upon the facts of violation of the anti-monopoly legislation - 36.

From among these cases:

- number of cases invoked as a result of considering the applicants' claims - 28 (78 percent of the total number of cases invoked);
- number of cases invoked upon the initiative of territorial offices - 8 (22 percent of the total number of cases invoked);
- number of cases terminated in the process of consideration - 9 (25 percent of the total number of cases invoked);
- number of prescriptions issued - 25 (69 percent of the total number of cases invoked).

From among the prescriptions issued:

- number of executed prescriptions - 19;
- number of prescriptions in the process of execution - 5;
- number of prescriptions that were not executed - 1.

2.3. *Control over mergers of commercial organizations and over acquisition of shares in the registered capital of commercial organizations*

One of the key tasks of the State Anti-Monopoly Committee of Russia (and of its territorial offices) is to execute state control over the compliance with the anti-monopoly legislation, in particular, of the control over acquisition of stocks (shares) in the registered capital of commercial organizations in accordance with the requirements of Article 18 of the Law of the Russian Federation “On competition and limitation of monopolistic activities in commodity markets”.

According to the said article of the Law, a person (a group of persons) shall receive prior consent of an anti-monopoly agency to acquire over 20 percent of the voting stock (shares) in the registered capital of an economic entity. (The order concerning providing the anti-monopoly bodies with claims and notifications in accordance with the requirements of Articles 17 and 18 of the law « On Competition... » was approved by decree of the State Committee on Anti-Monopoly Policies of Russia, No. 145, 13

November 1995, and was registered with the Ministry of Justice of Russia on 24 November 1995, registration No. 981).

According to Article 18, clause 4, of the law « On Competition... », upon the results of consideration of applications the anti-monopoly bodies may adopt the following types of decisions:

- to approve the application;
- to refuse to approve the application (when the requested transaction results in reinforcing the dominant position of a petitioner [group of applicants], and/or in restricting the competition);
- to approve the application conditioned upon concrete behavioral demands aimed at securing competition.

In 1997, about 1000 applications under Article 18 of the law « On Competition... » were filed with the State Anti-Monopoly Committee of Russia. In 13 cases the Committee imposed behavioral conditions on the purchaser. For example, it imposed conditions on ZAO Rosprom in relation to OAO Avisma and OAO Apatit; on a German company -- Knauf -- in relation to OAO Novomoskovskgips and AO Baskouchak; on ZAO North-West Investment Society -- an affiliate of Inkombank -- in relation to ZAO Omsky Bekon, etc. The practice of imposing behavioral conditions is applied in connection with approving applications to acquire control over economic entities occupying a dominant position in a commodity market. The State Anti-Monopoly Committee of Russia and its territorial offices maintain supervision over the compliance with such conditions.

If there is a violation of the procedure established by Article 18 of the law « On Competition... » in that parties did not obtain prior consent for implementing the transactions (actions) listed in clause 1 of the said Article, the anti-monopoly bodies conduct investigations with a view to adopting a decision in accordance with the provisions of Article 18, clause 9, of the Law « On Competition... ». If the transaction (action) in question does not entail establishing or reinforcing the dominant position of the purchaser, and/or restricting the competition, this finding is reflected in the conclusion. In doing so, the anti-monopoly bodies notify the petitioner that they are not the ones who may legally demand to declare the said transaction void. For example, in the year of 1997 the State Anti-Monopoly Committee of Russia considered the cases on indications of violation of Article 18 of the Law « On Competition... » involving TOO Tagris, AOZT Trading House « Nikitin & Co. », ZAO Strateg, a German company Knauf and AKB Inkombank.

Non-fulfillment by the participants of transactions of the demands of the anti-monopoly bodies to re-establish the necessary competitive conditions within a concrete period of time means that the transactions may be declared void under a legal suit of the anti-monopoly bodies. As a result of such a legal suit, the stocks (shares) constituting the subject matter of transactions are returned to their original proprietors.

Such a scheme provides the anti-monopoly bodies with an opportunity to prevent, and in some cases to suppress, the anti-competitive consequences of transactions on gaining control over or acquiring large lots of shares of organizations which occupy a dominant position in a Russian commodity market.

Apart from the above, non-fulfillment by legal entities and by individuals of the legitimate demands of the anti-monopoly bodies on re-establishment of necessary competitive conditions may result penalty sanctions provided for by Articles 23 and 24 of the Law « On Competition... ».

THE RUSSIAN FEDERATION

In 1997 the State Anti-Monopoly Committee of Russia gave its consideration to, and adopted resolutions on compliance with the anti-monopoly legislation of, projects to create 17 financial-industrial groups (a third of which are of regional nature), and it studied the documentation on forming 39 amalgamations of commercial organizations, including 29 associations and 10 alliances.

2.4. Control over activities of bodies of executive power which harm development of competition

- After the Governor of the Kursk Region adopted a resolution restricting economic entities independence in selecting the structures providing them with banking services, a case was invoked on the indications of violation of the Law “On competition and limitation of monopolistic activities in commodity markets”. The information on case studies was dispatched to the Chief State Legal Directorate of the Administration of President of the Russian Federation.

As a result of consideration of this issue jointly with the Chief Legal Control Directorate, there was elaborated and adopted a Decree of President of the Russian Federation No. 1328 of 18 December 1997 « On resolution of Governor of Kursk Region No. 725 of 13 June 1997 « On regulating financial and economic relations in the territory of Kursk Region », which suspends the effect of the said resolution and suggests to bring it in compliance with Constitution of the Russian Federation and with federal laws.

- On the basis of an application from the Grain union, there was an investigation of resolution No. 941 of the Governor of the Kursk Region, 27 August 1997, « On urgent measures on safe keeping and control over the exports of grain of the harvest of 1997 beyond the boundaries of Kursk Region » to determine its compliance with the requirements of the anti-monopoly legislation. The check-up revealed that the resolution contained norms obliging economic entities to coordinate their activities on grain exports with the regional administration. This constitutes a violation of the anti-monopoly legislation.

As a result of joint work with the Chief Legal Control Directorate of the Administration of President of the Russian Federation, there was adopted a Decree of President of the Russian Federation No. 1306 of 17 December 1997 « On normative legal acts of Governor of Kursk Region », which suspends the resolution and suggests bringing it in compliance with the Constitution of the Russian Federation and with federal legislation.

- In 1997 the Committee elaborated Recommendations on the application of Articles 7 & 8 of the Law of Russian Federation « On competition and limitation of monopolistic activities in commodity markets », and at the present time these recommendations are in dispatch to the territorial offices of the State Anti-Monopoly Committee of Russia for the purpose of usage in regular operation. The review of legal practices on application of Articles 7 & 8 of the Law was submitted to the Government of the Russian Federation.

3. The role of competitiveness agency in shaping and implementation of trade policies, and in protecting principles of good-faith competition

Trade Policies The conditions required of the Russian Federation as a prerequisite for its admittance to WTO provide for creating in Russia mechanisms of economic regulation corresponding to

current international practices, and these conditions have a general pro-competitive nature. In these terms the policies pursued by the State Anti-Monopoly Committee of Russia are in the mainstream of the measures the Russian Federation has to implement its integration into the world economics. Under the circumstances, the key task facing the Committee is to shape a weighted economic policy providing for a balance between the measures on opening up the Russian markets to foreign competition and the protectionism, between the measures to protect local commodity producers and the interests of consumers.

The State Anti-Monopoly Committee of Russia actively participates in the activities of the Commission of the Government of the Russian Federation on protective measures in foreign trade, on customs and tariffs issues. In that capacity, the Anti-Monopoly Committee revealed the intentions of certain Russian producers to resort to measures of tariff protection without raising the competitiveness of their own commodities in international markets. Under such circumstances any reduction of imports would signify reducing competition in the local market. Upon studying the situation in the commodity market, and after considering possible measures, the Commission adopted decisions which preclude the providing of groundless privileges and restricting of competition.

In 1997, state policies targeted at protecting domestic commodity producers acquired a more systematic nature basically corresponding to the norms of the World Trade Organization. Over the year there proceeded a joint interaction of several federal agencies on elaboration of the Federal Law « On measures to protect economic interests of the Russian Federation in implementing foreign trade in commodities » (No. 63-ÔÇ of 14 April 1998). This law is conceived on the basis of WTO documentation. The law foresees consideration of anti-monopoly issues by providing for inclusion of the State Anti-Monopoly Committee's conclusion on the impact of applying special protection, anti-dumping and compensation measures upon the competition in the internal market of the Russian Federation.

Unfair Competition In the area of unfair competition, classification of cases prosecuted by the anti-monopoly bodies shows that the most widespread violations of the law of the Russian Federation « On Competition... » continue to be as follows:

- deceiving consumers regarding the nature, means and place of production, capacity, and quality of commodities (29 percent);
- disseminating false, imprecise or distorted information capable of inflicting losses to another economic entity, or to damage its good will (24 percent); and
- selling commodities with unlawful utilization of the results of intellectual activities and of the equated means of personifying the commodities, execution of works and services (31 percent).

Unfair competition in the form of acquiring, utilizing and divulging scientific, technical, industrial or trade information, including commercial secrets, without consent from its proprietor, or in other forms, is practiced on a much smaller scale (16 percent).

Intellectual Property In connection with preparatory work for Russia's admittance to the WTO, the anti-monopoly agencies paid particular attention to suppressing illegal practices unauthorized use of intellectual property and protecting the objects of intellectual property. Apart from the norms of the Law of the Russian Federation « On Competition... », anti-monopoly agencies also used the Methodological recommendation « On measures to secure safe keeping of objects of intellectual property ,» which was developed jointly with the Ministry of the Interior of Russia, State Customs Committee of Russia, and

THE RUSSIAN FEDERATION

Federal Service of Russia on Insolvency of Enterprises. Intensive activities on fighting piracy were conducted in 24 regions of Russia jointly with public order enforcement agencies.

The most widespread violation in this sphere is the unwarranted use of trademarks, company names and the names of original commodity production places. Of particular difficulty are the cases of deliberate usage of trademarks of internationally renowned companies in order to hamper their access to the Russian market. A typical scheme of such activities is as follows: registration of a trademark in one's own name, followed by an attempt to either sell the copyright, or to prevent market activities of the company which had been utilizing the trademark for already a long time but had failed to register it in a timely fashion.

Investigation of such cases shows that registration of well-known trademarks is formally conducted under the procedures set forth by the law of the Russian Federation « On trademarks, service marks and names of the commodities' places of origin ». However, a registering agency usually does not take into account possible negative impact of such activities upon the market situation. Resolution of emerging collisions requires an involvement of the anti-monopoly bodies and a consideration of objections against a trademark's registration with the Chamber of Appeal of Rospatent.

Case Examples Of particular interest to mass media were the following cases studied by the State Anti-Monopoly Committee of Russia:

- a case on selling Borjomi mineral water with unwarranted use of the trademark, the exclusive rights for which belong to the plaintiff (TOO Lukoshkina & Co. against TOO Firm North Market, TOO North Star, and OOO Company Disentis);
- a case on misleading consumers regarding the consumer capacities, quality and place of origin of the commodity (OOO Procter & Gamble against Clorocs Company, USA, and Clorocs International Company, UK).

Unfair competition enforcement revealed a number of problems, the most acute of which is the necessity to improve the existing legislation concerning intellectual property.

Annex 1.

**Activities of State Anti-Monopoly Committee
(State Committee on Anti-Monopoly Policies) of Russia and
of its territorial offices in 1994-1997 on control over compliance
with anti-monopoly legislation and legislation on advertising**

No.	Type of Activity	Number of cases studies			
		1994	1995	1996	1997
1.	Number of applications considered in order of general control over the compliance with the anti-monopoly legislation, a total	12 152	9 144	7 610	
2.	Including on the facts of violation of the anti-monopoly legislation	3 720	2 933	3 077	
		968	1 905	4 000	