

Unclassified

DAF/COMP/GF/WD(2009)31

Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

09-Feb-2009

English - Or. English

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Global Forum on Competition

COMPETITION POLICY, INDUSTRIAL POLICY AND NATIONAL CHAMPIONS

Contribution from the Russian Federation

-- Session I --

This contribution is submitted by the Russian Federation under session I of the Global Forum on Competition to be held on 19 and 20 February 2009.

Contact: Hélène CHADZYNSKA, Project Manager of the Global Forum on Competition
Tel: 33 1 45 24 91 05; email: helene.chadzynska@oecd.org

JT03259408

Document complet disponible sur OLIS dans son format d'origine
Complete document available on OLIS in its original format



DAF/COMP/GF/WD(2009)31
Unclassified

English - Or. English

COMPETITION POLICY, INDUSTRIAL POLICY AND NATIONAL CHAMPIONS

--Russian Federation--

1. On November 17, 2008 the Government of the Russian Federation adopted a “Concept of Long-term Social and Economic Development of the Russian Federation until 2020” the main objective of which is to determine ways to ensure in long-term perspective (2008-2020) the stable growth of welfare of the Russian citizens, national security, dynamic development of economy, strengthening Russia’s positions in the global community.

2. This Concept contains tasks for development of social aspects and different sectors of economy, including raising of competitiveness of the Russian products on the global market. This envisages structural changes of industries and industry’s diversification. The major objective is moving to the high-technology-based economy.

3. The notion of necessity of competition threads the whole Concept. Therefore the balance of competition policy and industrial policy is seen with unaided eye.

4. What is more the Federal Antimonopoly Service (FAS Russia) provides on an annual basis the Report to the Government “On Competition in the Russian Federation” that addresses major challenges for competition development in all the sectors of economy, including oil and gas, power energy, transport, retail, construction and many others. Along with describing the current situation the Report contains specific actions to be undertaken to eliminate the threats for competition development and aimed at pro-competitive development of different sectors of the Russian economy. This Report is available online on the official web-site of the FAS Russia.

5. Along with this Report the FAS Russia together with the Ministry of Economic Development has elaborated the Program for Competition Development in the Russian Federation (to be adopted shortly), which covers the issues of threats to competition and means for their elimination, competition development in the sensitive and socially-important sectors of economy. Moreover, this Program contains proposals on competition policy improvement.

6. All the above mentioned documents determine the strategy of pro-competitive development of the Russian economy and ensure the balance of competition and industrial policy in Russia.

7. Moreover, the Russian Ministry of Industry and Trade has been elaborating a number of industrial sectors policies that determine the strategy of their development for the certain period of time. For instance these policies include:

- Development Strategy for aviation industry till 2015;
- Development Strategy for electronic industry till 2025;
- Development Strategy for shipbuilding industry till 2020, etc.

8. All of them have been adopted in compliance with the Russian legislation and procedure which means that all the interested state agencies are to agree on them. The FAS Russia has taken an active part in introducing competition principles to all of these documents.

9. The great load of the FAS Russia activity concerns natural monopolies regulation (gas and oil sector, railways, post, etc) aimed primarily at achieving the balance of consumers and natural monopolies

interests that ensures availability for consumers of the sold goods and effective functioning of natural monopolies.

10. The FAS Russia has a number of successful implementations of reforms of monopolistic sectors in order to ensure their pro-competitive development, such as the one in power energy sector (which is considered to be the best one in the world from the competition perspective), telecommunications, railways, oil and gas sector, air transportation, etc. Usually in order to implement such reforms basic structural and institutional reorganisations are being conducted, fundamentals of the sector legal base meeting the market conditions are being formed, functions of state management and economic activity are being separated, a system of state regulation complying with the new conditions is being created.

11. Other tools of this state economic regulation is formation of rules on non-discriminatory access to the infrastructure of the natural monopolies and continuous activity on separation of potentially competitive and naturally monopolistic sectors which is based on the fact that natural monopolies were initially created as vertically integrated companies. It should be underlined that according to the law on natural monopolies constraint of economically justified transfer of the spheres of natural monopolies to the competitive market is prohibited.

12. The FAS Russia is also concerned with the growth of the price pressure on economy by natural monopolies due to their non-effectiveness. In order to settle this problem the FAS Russia suggests introducing significant amendments to the legislation on natural monopolies aimed at reduction of their costs, at toughening of state control over them (one of the options is to introduce the procedure of confirmation and agreement by all the state authorities of investment programs of the natural monopolies).

13. What is more the FAS Russia is truly concerned with threats to the competition development that are posed by creation of state corporations in various sectors of economy, which was explicitly described in the 2007 Annual Report of the FAS Russia to the Government of the Russian Federation. State participation in such entities leads to distortion of competition on the relevant markets.

14. To eliminate these concerns the following measures are considered by the FAS Russia as appropriate:

- a) Enhancement of competition control over public entities. Despite that public entities are created as non-commercial organisations they conduct economic activity and get profit, this is why they are fully applicable to the competition law. The competition authority has a right to get access to any information of public entities.
- b) Restitution of powers (bill drafting, supervising, control and enforcement) from all the public entities back to state and setting of legal prohibition for such delegation of functions.
- c) Expansion of using tender mechanisms by public entities under purchase of goods, works, services from private Russian companies. Practice of holding auctions for public procurement has shown high effectiveness of these market mechanisms.
- d) Ensuring transparent functioning of public entities for which is necessary to: determine clear criteria of assessment of their activity, introduce according to the principles of the administrative reform the system of indicators of their work, toughen requirements to report, modernise system of state statistic supervision over public entities and companies controlled by them.
- e) Introduction of moratorium on creation of new public entities until organising effective system of monitoring and control over activity of already existing entities, as well as their demonstration of their results.

- f) Adoption of regulation envisaging fixed amount of the state financial resources given to the public entity to eliminate opportunity of permanent state financial support to the public entities.

15. The Russian Federal Law №135-FZ “On Protection of Competition” does not contain any sectoral exemptions. However according to the provisions of the Article 13 of this Law the Government of the Russian Federation has the right to determine the cases of permissibility of agreements and concerted practices meeting the conditions stated in items 1 and 2 of part 1 of the present article (perfection of production, sale of goods or stimulation of technical, economic progress or raising of competitive capacity of the Russian goods in the world market; obtaining by consumers of benefits (advantages) which are proportionate to the benefits (advantages) obtained by the economic entities in the result of actions (inaction), agreements and concerted practices, transactions, other actions) (general exemptions).

16. Presently the Government of the Russian Federation is considering the adoption of the Resolution “On adoption of the list of block exemptions in respect of agreements (concerted actions) between economic entities” elaborated by the FAS Russia. This Resolution contains three block exemptions in respect of agreements:

- between buyers and sellers of products;
- between banks and insurers;
- on scientific and technical cooperation and joint use of the gained results of such cooperation.

17. However in order to ensure competition development in different sectors of economy the FAS Russia introduces competition principles to various sectoral legal acts (Water Code, Forest Code, laws on fishery, power industry, finance, etc).

18. Talking about the balance between the merger control and promotion of the so-called national champions as the tools of competition and industrial policies respectively, each case is considered carefully by the FAS Russia. And should the companies justify their merger as bringing more social and economic benefits the FAS Russia has no grounds to refuse it, according to the law.

19. For instance, the merger of OJSC “Volgaburmash” and OJSC “Uralburmash”, which are virtually the single representatives of Russia in drill bits production for oil and gas and mining industries respectively on the world market of drill bits, was thoroughly considered by the FAS Russia. Having analysed this market the FAS Russia gave its satisfaction on this merger. The FAS Russia came to the conclusion that this market in Russia, as well as in the whole world, is characterised by high concentration of production. The group of consumers of these two plants doesn’t practically overlap. And the merger of these plants would have a number of benefits in respect of enhancement of their positions on the global market. This merger would allow getting an access to cheap credit resources in order to increase capacities and to invest into the development of new products. Moreover there would be an opportunity to get a synergetic effect from optimisation of logistics, raw supply discounts and savings from research and development. As a result of the analysis the FAS Russia anticipated enhancement of competition by foreign producers. Moreover after the merger the Russian Holding could be rated on the 6th place in the world and occupy 13% of the global market under the scope of production and under the diversity of its product line the Holding could be on the 3rd place in the world which is consistent with the long-term strategy of development of Russia stated by the Government of the Russian Federation and will allow Russia to have an equal right in adopting new product standards on the market in future. The overall economic effect from reduction of costs is estimates as US \$12,9mln annually.

20. Another illustrative merger case is the merger of OJSC “NLMK” and “VIZ-Steel” Ltd., two major producers of transformer steel, which was also satisfied by the FAS Russia due to its social and economic benefits for Russia. 90% of the produced transformer steel is exported and should the Russian companies lose their competitiveness on the foreign market the production of transformer steel will be ceased. The presence of Russia on the global market of high-technology metal products is considered to be as one of strategic priorities. At the same time taking into consideration that the European Commission does not limit the geographical borders of the transformer steel market by the territory of one country, the market of transformer steel in Russia is competitive. The major peculiarity of the Russian market is the horizontal integration of transformer steel producers due to the fact that their joint efforts aimed at development of scientific and technical base, development and introduction of new technologies provide for their competitiveness both on the domestic and global market of electric steel.

21. To sum up, the FAS Russia is not against creation of national champions but only in those sectors where it is justified and necessary for enhancing competitiveness of Russia on the global markets. What is seen as a means to restrain their negative impact are severe sanctions that are provided by the turnover fines, an opportunity to determine collective dominance on the market and the established procedure of compulsory separation of company’s activities.