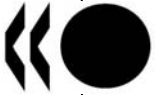


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Global Forum on Competition

ROUNDTABLE ON BRINGING COMPETITION INTO REGULATED SECTORS

Contribution from Russian Federation

-- Session I --

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ROUNDTABLE ON BRINGING COMPETITION INTO REGULATED SECTORS

1. In Russian Federation spheres of Natural Monopolies activity relate to regulating economic spheres. Its activity, besides sector legal acts, is regulating by the Law “On Natural Monopolies”, which determines the basis of the federal policy concerning natural monopolies subjects independently of its sector specificity.

2. The Law “On Natural Monopolies” determines spheres of natural monopolies subjects’ activity. Development of competition in the following spheres is impossible or economically inexpedient in up-to-date conditions:

- transportation of electricity power by network, as well as oil and gas by pipeline;
- services of ports and airports;
- basic telecommunication services at local level;
- railway transportation services;
- post and telegraph services.

3. The Law settles allowable methods of state regulating, which should be applied regarding the pointed economic subjects.

4. These methods are the following:

- price regulating, realizing by price (tariff) determining (fixing) or determining of its maximum level;
- determining of consumers to be obligatory served,
- and (or) determining of the minimum ensuring in case of impossibility to completely providing with goods, producing (realizing) by subjects of natural monopolies.

5. The Law also stipulates the possibility of application of the antimonopoly legislation with respect to the subjects of natural monopolies in cases when its activities brings or can bring to infringement of counteragents’ interests, as well as during control over economic concentration, which is realized with participation of the subjects of natural monopolies.

6. Besides the Law determines functions and authorities of the bodies for natural monopolies’ regulation, and defines the procedures of taking decisions and appealing of decisions taken by the body decisions.

7. At present time three federal bodies of executive powers are realizing provisions of the Law “On natural Monopolies”. These bodies are independent from regulating economic operators on issues of organisation structure, finance, legal structure and decision-making. These bodies are directly submitted to the Chairman of the Government of the Russian Federation. They are:

- Ministry for economic development and trade of the Russian Federation, responsible for elaboration of state policy in the sphere of natural monopolies;
- Federal Service for Tariffs, realizing functions of price (tariffs) determining (fixing) in the spheres of natural monopoly subjects activity and realizing control regarding prices (tariffs) determining (fixing) and its' application in pointed spheres. This Service has the right to set the price by means of direct indication of the concrete price or determining of the upper limits, extra charge or maximum coefficient of price changes;
- Federal Antimonopoly Service (FAS Russia), realizing functions of control and supervision over:
 - Activities, which realizing with participation or with regard to natural monopolies subjects, which can infringe goods consumers' interests, taking in mind that these goods are regulating, or activities, which restrain economically sound transition of the appropriate commodity market from condition of natural monopoly to condition of competition market;
 - Observance of natural monopolies subjects' requirements on indiscrimination;
 - Observance of requirements on obligatory concluding of the treaties by natural monopolies subjects, Est.

8. Thus, activities of natural monopolies subjects, based of provisions of the Law "On Natural monopolies", do not removed from the sphere of application of the Law "On Competition and Restriction of Monopolistic Activity at Commodity Markets" (the Law on competition) and realisation of the FAS Russia' functions in the sphere of regulation of their activity realizing in the frameworks of the Law on competition.

9. The accent of provisions application of the Law on competition with amendments of 2002 regarding the natural monopolies subjects, was removed from reacting upon being made infringements to preventing the establishment of discriminative conditions by requiring the fulfillment of economic, technical, informative and other requirements.

10. Furthermore federal antimonopoly body realizes control over activity of the bodies of state power and municipal bodies with the view to bar restriction of competition and infringement of interests of economic subjects when passing acts or realizing activities. It also concerns the bodies for regulating of activity of natural monopolies subjects.

11. Institutional structure of the Russian federal antimonopoly body allows to realize its' authorities at all levels (federal, regional, local), because at present time within the system of Russian antimonopoly bodies, Central body, as well as Regional offices, is controlling the situation at markets of fuel-energy complex, transport and communication.

12. Experience of application of the antimonopoly legislation in the spheres of natural monopolies shown, that the most frequent violation by natural monopolies subjects is abusing of dominant position.

13. Thus, in 2003, 3269 applications concerning abuse of dominant position by economic entities at commodity markets were received. More than 70 % of the applications were on abusing of dominant position at markets of base fields of economy such as markets of electricity power and heat, gas, oil and oil products, communicative services, railway transport, sea and river transport, activity of seaports and river

ports, motor transport and air transport, as well as airports activity. 59% of applications concern abusing of dominant position by natural monopolies in the electricity power and heat sphere.

14. Treaties made with participation of natural monopolies subjects have significant place in antimonopoly body' activity on control over economic concentration.

15. At the same time about 10% of the treaties are agreed by federal antimonopoly body only on conditions those requirements on providing of competition is observed. These requirements have as behavioral, so structural nature. Such requirements for example were put forward by public corporation "Svyazinvest" during its reorganizing and establishing of seven interregional communicative companies. These requirements were aimed at creation of equal conditions for telecommunicate operators that are the members of the group of persons of public corporation "Svyazinvest", as well as non members. Establishment of the public corporation "Russian Railways" was agreed under terms of creation of equal conditions for companies, those are included into group of persons of Russian public corporation "Russian Railways" and are not included. Moreover, removing of the enterprises, those are not connected with transportation process, out of the public corporation "Russian Railways" during the fixed period, stipulated for the agreement.

16. At the same time FAS Russia activity in the sphere of natural monopoly regulation is not only realizing of the mentioned functions. Existing system of the federal state power and FAS Russia' authorities provide participation of the Russian antimonopoly body in all stages of forming and realisation of federal policy concerning regulation in the spheres of natural monopolies in close collaboration with another regulator.

17. FAS Russia has the right of "legislative initiative" on issues of natural monopolies regulation. This right allows to FAS Russia to participate in the process of elaborating the reforming programs for natural monopolies' fields of economy and legislative providing to realize these programs in order to provide pro-competitive nature of such reforms, as well as in improving of regulating methods with the view to minimize its limiting influence on competition development.

18. Besides FAS Russia also participates in process of price regulation of natural monopolies subjects' activity. One person of FAS Russia authority is the member of Directorate of the Federal Service for Tariffs. Directorate is collegial body, established for decision-making on price (tariffs) definition (fixing) and to control in the spheres of natural monopolies subjects' activity.