

Unclassified

DAF/COMP/AR(2013)24

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

22-May-2013

English - Or. English

Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

DAF/COMP/AR(2013)24
Unclassified

**ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN THE RUSSIAN
FEDERATION**

-- 2012 --

This report is submitted by the Russian Federation to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 19-20 June 2013.

JT03339955

Complete document available on OLIS in its original format

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

English - Or. English

TABLE OF CONTENTS

Executive Summary	3
1. Changes in Competition Law and Policy, Proposed and Adopted.....	4
1.1 Review of the New Norms of Competition Law and Related Laws and Regulations	4
1.2 Other Relevant Normative Legal Acts and Guidelines, etc.	7
1.3 Government Proposals Regarding New Legislation	8
1.4 Agreements on Cooperation.....	10
2. Enforcing Competition Law and Carrying Out Competition Policy.....	11
2.1 Efforts against Monopolistic Activities	11
2.2 State Control over Economic Concentration.....	17
2.3 State Control over Competition-Restricting Acts, Actions, Agreements or Concerted Actions of Federal Executive Bodies, the Authorities of the Constituent Territories of the Russian Federation, Local Self-Government Bodies, Other Bodies or Organizations Assigned the Functions of the Above Bodies, the Central Bank of the Russian Federation	18
2.4 Actions to Suppress Unfair Competition	19
3. The Role of Competition Bodies in Shaping and Implementing Other Policies	20
3.1 Administrative Reform and Anti-Corruption Efforts.....	20
3.2 External Audit: ISO 9001:2008	20
3.3 Control over Foreign Investments in the Strategic Sectors of the Economy	20
3.4 Ensuring Non-Discriminatory Access	21
3.5 Commercial Policies	23
3.6 Developing Competition in the Infrastructure Sectors Including Natural Monopolies	24
3.7 Developing International Cooperation in Enforcement	27
3.8 Project Activities.....	31
3.9 System-Wide Measures and Competition Advocacy.....	31
4. Resources of the Competition Authorities.....	35
4.1 General Resources (the Current Numbers and Changes within the Past Year)	35
4.2 Staff (Man-Years) Involved in:.....	36
4.3 The Information Period.....	36
5. References to New Reports and Works on Competition Policy.....	37

Executive Summary

1. In December 2011, Russia adopted the so-called “third antimonopoly package” that introduced amendments to the Federal Law “On Protection of Competition”, the Code of the Russian Federation on Administrative Violations and some other legislative acts of the Russian Federation.
2. The “third antimonopoly package” coming into force in January 2012 started new enforcement practices related to such changes to the antimonopoly law as clarifying the criteria for monopolistically high price; detailing the concepts of “cartel”, anticompetitive agreements and actions of economic entities; liberalizing the rules for control over mergers and acquisitions; detailing the procedures for cases on antimonopoly violations, etc.
3. Another novelty of the “third antimonopoly package” relates to the institutions of “warnings” and “admonitions”, designed to prevent violations of the antimonopoly law, and eliminate violations without long procedures of case investigations. As a result, the new instruments will reduce the burden over the officers of the antimonopoly bodies that would be able to focus on especially dangerous violations, which have significant adverse impact upon competition. Overall, in 2012 the antimonopoly bodies issued 1423 warnings and 73 admonitions.
4. In 2012 FAS drafted and adopted a number of strategic documents that shape the work of Russia’s antimonopoly authority for a long-term period. Such documents include the Road Map on “Developing Competition and Improving the Antimonopoly Policy” (approved by No.2579-r Order of the Government of the Russian Federation of 28th December 2012) and several industry-specific Road Maps that contain measures aimed at developing competition in particular industries.
5. In 2012, the Government Commission on Competition and Development of Small and Medium Enterprises was formed to coordinate efforts of executive bodies and interact with business community to develop proposals on national competition policy.
6. FAS also devised and adopted the “Strategy for Developing Antimonopoly Regulation in the Russian Federation for 2013-2024”.
7. In the past year, like in previous years, combating cartels was FAS priority. Developing competition law in this field, which includes improving the “leniency programme”, enabled FAS to robustly expose cartels, particularly, on the basis of the documents and information obtained in the course of “dawn raids” involving law enforcement bodies.
8. As a result of its efforts, by the end of 2012 several arbitration proceedings on cartel cases (on the markets of medicines, chemical industry, etc.) were completed and at the beginning of 2013 were transferred to the law enforcement bodies.
9. 2012 achievements also include changes to the law with regard to control over economic concentration aimed at reducing the administrative burden upon medium business and concentrating on large transactions that affect competition. For instance, amendments to the Federal Law “On Protection of Competition” unified the threshold values, reaching which in transactions or other actions preliminary approvals by the antimonopoly body are required. Since the amendments were introduced, the number of pre- and post-merger notifications, considered by FAS, decreased twofold.
10. A landmark event in 2012 was opening FAS Resource-and-Training Centre in Kazan, the capital city of the Republic of Tatarstan. It is expected that apart from training sessions, the Centre will host international conferences, workshops and meetings aimed at approximating the antimonopoly law of

Russia and the CIS states as well as foreign countries to achieve better practical results in conducting competition policy, at both national and international levels.

11. In 2012 FAS was actively involved in establishing a system of antimonopoly regulation within the Common Economic Space of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation, with competition policy on national and cross-border markets carried out by the antimonopoly bodies of Russia, Kazakhstan and Belarus as well as the Eurasian Economic Commission.

12. One of FAS priorities in 2012 was interaction with the Organization for Economic Cooperation and Development (OECD) under the framework of Russia's accession to OECD as well as by taking part in ongoing events of this international organization. During 2012 experts of OECD Competition Committee continued evaluating competition law and policy of the Russian Federation for compliance with OECD requirements.

13. In 2012 Russia became a fully-fledged member of the World Trade Organization, which should stimulate modernization and increase competitiveness of Russian economy, improve the business climate and investment attractiveness of Russia.

14. To catalyze international cooperation between competition authorities of different countries, in 2012, upon a FAS initiative several international Working Groups for developing competition on socially important markets were formed and became active: the International Working Group on Pricing on the Oil and Oil Products Markets and Methods of their Functioning; the International Working Group on Pharmaceutical Industry; and the International Working Group on Roaming.

1. Changes in Competition Law and Policy, Proposed and Adopted

1.1 Review of the New Norms of Competition Law and Related Laws and Regulations

15. 2012 was marked by coming into force several federal laws of the Russian Federation aimed at improving antimonopoly regulation (the so-called "third antimonopoly package"). The content of the "third antimonopoly package" is disclosed in 2011 Annual Report.

16. In 2012 Russian Government adopted the Road Map on "Developing Competition and Improving Antimonopoly Policy" and several industry-specific Road Maps that contain measures, the purpose of which is to develop competition in particular industries.

17. The Road Map on "Developing Competition and Improving Antimonopoly Policy":

- Provides for system-wide measures towards developing competition
- Includes a list of measures for developing competition in particular industries (drugs, medical services, air transportation, communications services, pre-school education, and oil products)
- Specifies measures on coordinating efforts of the authorities, cooperation with representatives of the entrepreneurial community to devise proposals for the national competition policy.

18. In particular, the Road Map on "Developing Competition and Improving Antimonopoly Policy" contains measures on including competition development functions into the list of priorities of executive bodies; implementing the best competition-advancing practices in the constituent territories of the Russian Federation; decreasing the state sector of the national economy; developing competition in the infrastructure industries, including natural monopolies; simplifying entrepreneurial activity that is the subject of antimonopoly regulation.

19. For each item, the Road Map specifies the implementation period and executors, it also presents a system of monitoring implementation of the proposed measures and efficiency benchmarks, including an indicator of developing competitive environment on the markets of goods and services (based on a method of calculating PMR used by OECD), the number of new enterprises per 1000 persons (an indicator applied by the World Bank).

1.1.1 Education

20. No. 273-FZ Federal Law “On Education in the Russian Federation” was passed on 29th December 2012 (further on referred to as No.273 Act). As a result of active FAS involvement in drafting No.273 Act, it is oriented towards developing competition in education.

21. For instance, under Clause 11 Part 1 Article 3 of No.273 Act one of the principles of the national policy and legal regulation in the field of education is prohibition of restriction or elimination of competition in this sphere. Under this principle, non-state educational organizations must be guaranteed equal rights for state and municipal support and participation in state and municipal programmes and projects.

22. The principle of prohibiting restriction or elimination of competition in education is specified, in particular, in the following provisions of No.273 Act:

- A concept of “educational institution” is replaced with the concept of “educational organization”, extrapolating the norms of No.273 Act on educational organizations of all organizational-legal forms and property forms
- Informational openness in education is also supported by several provisions of No.273 Act on placing all information required by participants of the market of educational services and consumers of educational services in internet
- Equality of financing standards for private and state (municipal) pre-school and general educational organizations
- Compensation for child minding to the parents whose children attend educational organizations, including private ones, which render pre-school educational programmes
- Additional professional programmes can be implemented in the places that are not places of registration of an educational organization if a consumer wish it
- Social guarantees in education are extrapolated to educational organizations regardless of their organizational legal forms and property forms
- A category of “national research university” shall be assigned to an educational organization of higher education on the basis of competitive selection
- It is not allowed to increase the costs of fee-based educational services after contracts are concluded, except when the costs of services are increased in line with the rate of inflation
- The accreditation body certifies experts and expert organizations
- In professional education admission quotas are allocated on the basis of a public tender
- Targeted use of property in educational field after an educational organization is liquidated.

23. Enforcing No.273 Act, an Action Plan (“Road Map”) on “Changes in the Social Sectors Aimed at Increasing Efficiency of Education and Science”, was approved by No. 2620-r Decree of the Government of the Russian Federation of 30th December 2012.

1.1.2 Tourism

24. No. 47-FZ Federal Law “On Introducing Changes to the Federal Law “On the Fundamental Principles of Tourist Activities in the Russian Federation” (further on referred to as No.47 Act) was adopted on 3rd May 2012. No.47 Act incorporates the main FAS proposals on improving the law on tourism in the part of protecting competition in this field.

25. No.47 Act contains the following FAS proposals:

- The size of financial security for tour operators in international tourism is set proportionally to the actual scope of obligations under the contracts concluded with consumers of tourist services
- Financial security for tour operators in inbound tourism, where risks are carried by foreign travel companies that provided a package tour, is reduced from 10 million to 500,000 Rubles;
- A special fund for protecting tourists’ rights is formed out of contributions by tour operators involved in outbound tourism for emergency assistance to tourists; the association of tour operators in outbound tourism shall form the compensation fund.

26. In line with the FAS opinion, the following amendments are excluded from the draft law since they could have restricted competition:

- On mandatory self-regulation in outbound tourism;
- On obligations of tour companies to work on behalf and under instructions from a tour operator;
- On increasing the statutory capital of tour operators involved in outbound tourism;
- On introducing mandatory classification of tourist facilities.

1.1.3 Oil & Gas Sector

27. The amendments to the Federal Law “On Protection of Competition” (the “third antimonopoly package”) established the requirements for setting market prices through commodity exchange trading. Executing the requirements will enable to set an objective market indicator for oil products.

1.1.4 Electric Power Industry

28. The amendments to the Federal Law “On Protection of Competition” (the “third antimonopoly package”) introduced the concepts of price manipulation on the wholesale and (or) retail markets of electric power (capacity) and prohibited such manipulations.

1.2 *Other Relevant Normative Legal Acts and Guidelines, etc.*

1.2.1 *Normative Legal Acts*

29. To enforce the “third antimonopoly package”, FAS drafted a significant number of normative legal acts designed to enforce the novelties of the antimonopoly law:

- Changes to FAS Regulations assigning additional powers (approved by No. 944 Decree of the Government of the Russian Federation of 18th September 2012)
- The procedures for compiling and keeping the register of the persons held administratively liable for violating the antimonopoly law (approved by No. 378 Decree of the Government of the Russian Federation of 23rd April 2012)
- The procedures for reconsidering determinations issued on the cases specified in Article 33 of the Federal Law “On Protection of Competition” (approved by No.544 FAS Order of 24th August 2012)
- The form and content of an application for reconsidering a decision made by an antimonopoly body and (or) a determination on an antimonopoly case issued on its basis (approved by No.85 FAS Order of 13th February 2012)
- New forms of acts accepted by the Commission of an antimonopoly body, considering an antimonopoly case (approved by No.153 FAS Order of 16th March 2012)
- The procedures for submitting a list of affiliated persons to an exchange by an economic entity that has dominant position on the relevant market, accredited and (or) participating in bidding, particularly by filing bids through a broker, brokers (approved by No.409 FAS Order of 26th June 2012). The procedures establish the principles of setting market prices through exchange trading with participation of a dominant economic entity and enable preventing price violations by companies
- The criteria of regularity and evenness of selling goods through exchange for certain markets, where oil and (or) oil products are circulated (approved by No.1035 Decree of the Government of the Russian Federation of 11th October 2012)
- Changing asset values of financial organizations (except credit organizations) for the purposes of antimonopoly control (approved by No.542 Decree of the Government of the Russian Federation of 1st June 2012)
- The procedures for analyzing the state of competition to establish dominant position of a credit organization. The procedures determine the specifics of analyzing the state of competition for the purposes of establishing the dominant position of a credit organization in the course of rendering banking services (approved by No.548 FAS Order of 24th August 2012).

1.2.2 *Administrative Regulations*

30. In 2012, FAS devised and registered with the Ministry of Justice the following Administrative Regulations for executing state control-and-supervisory functions by the antimonopoly authority and rendering services in the field of antimonopoly regulation:

- The Administrative Regulations for executing the state function on control over antimonopoly legislation of the Russian Federation (approved by No.340 FAS Order of 25th May 2012)
- The Administrative Regulations for executing the state function on initiating and considering cases of violation of the antimonopoly law of the Russian Federation (approved by No.339 FAS Order of 25th May 2012)
- The Administrative Regulations for executing the state function on approving of establishment and re-organization of commercial organizations in the cases specified by the antimonopoly law of the Russian Federation (approved by No.342 FAS Order of 25th May 2012)
- The Administrative Regulations for executing the state function on control over compliance of agreements between economic entities with the antimonopoly law of the Russian Federation (approved by No.343 FAS Order of 25th May 2012)
- The Administrative Regulations on rendering state services on explanation of the issues of enforcing the antimonopoly law of the Russian Federation by the federal antimonopoly authority (approved by No.22 FAS Order of 20th January 2012)
- The Administrative Regulations for executing the state function on agreeing upon acquiring stock (shares) of the statutory capital of commercial organizations, obtaining fixed production assets or intangible assets into ownership or use, acquiring the rights enabling to determine the conditions for exercising entrepreneurial activities by an economic entity in the cases established by the antimonopoly law of the Russian Federation (approved by No. 786/12 FAS Order of 25th December 2012)

1.2.3 Guidelines

31. The Ministry of Interior and the FAS have jointly prepared the Guidelines for the officers of internal affairs bodies, in particular: an analytical review of the “Practice of Exposing and Documenting Crimes Related to Price Collusions and Dividing Markets According to a Geographical Principle under Article 178 of the Criminal Code of the Russian Federation”; the Guidelines on the “Tactics of Exposing and Documenting Crimes Related to Price Collusions and Dividing Markets According to a Geographical Principle under Article 178 of the Criminal Code of the Russian Federation”; and a report named “Cartel as a Type of an Organized Criminal Group in Economics. The Issues of Classification and Prove”. These documents were recommended for use in the practical work of Economic Security Units of the Ministry of Interior.

32. Based on Clauses 2 and 3 Part 2 Article 33 of the Federal Law “On Protection of Competition”, FAS devised the Guidelines for defining unreasonably high and low prices for the services of credit organizations. The Guidelines define unreasonably high and low prices for the services of credit organizations. The Guidelines were agreed upon with the Central Bank of the Russian Federation and approved by No.433 FAS Order of 28th June 2012.

1.3 Government Proposals Regarding New Legislation

1.3.1 Proposals on Changing the Law on Regulating Mandatory Civil Liability Insurance for Vehicle Owners

33. Current law concerns only competition on the quality of services for mandatory civil liability motor-vehicle insurance. At the same time, as the practice of the recent years has shown, in the course of

the tenders for the right to conclude mandatory civil liability insurance contracts, many insurers unlawfully understate the rates for mandatory civil liability motor-vehicle insurance, established by No.739 Decree of the Government of the Russian Federation of 8th December 2005.

34. To develop competition on the market of mandatory civil liability motor-vehicle insurance, FAS proposed to the Government of the Russian Federation to legislatively formalize the threshold insurance rates. It will allow insurers to independently reduce insurance premium under insurance contracts based on the company's financial position. The proposals were included in No. 191229-6 draft Law "On Introducing Amendments to the Law of the Russian Federation "On Organizing Insurance Operations in the Russian Federation" and the Federal Law "On Organizing Mandatory Civil Liability Insurance for Vehicle Owners", according to which the threshold (maximum and minimum) rates will be set on the market.

35. The draft law was submitted to the State Duma of the Federal Assembly of the Russian Federation by the Government and is now passed in the first reading.

36. The draft Law also includes FAS proposals regarding the procedures for establishing the governing bodies of a professional insurers association.

37. The proposed procedures for establishing the governing bodies are based on the principles of equal rights for all members of the association for declaring nominations for the above governing bodies and having one vote for each full member of the association voting, and take into account the interests of large, medium and small players (insurers) rendering services on the market of mandatory civil liability insurance for vehicle owners.

1.3.2 Foreign Investments

38. To further improve the law of the Russian Federation on foreign investments, FAS prepared, agreed upon with the interested federal executive bodies and submitted to the Government of the Russian Federation the draft Federal Law "On Introducing Amendments to No.57-FZ Federal Law "On the Procedures for Foreign Investments in the Business Entities of Strategic Importance for the National Defence and State Security" of 29th April 2008

39. The main amendments:

- Exclude the need for preliminary approval of transactions if the buyer is a company controlled by the Russian Federation, a constituent territory of the Russian Federation, as well as citizens of the Russian Federation that do not have dual citizenship and are tax residents
- Exclude the need for preliminary approval of transactions by foreign investors with regard to subsoil users that already possess 75% and more shares
- Exclude the need for preliminary approval of intra-group transactions with regard to subsoil users
- Reduce the number of strategic activities (using infectious agents if the company is mainly involved in production of food products)
- Grant a possibility to prolong an earlier issued decision about preliminary transaction approval
- Exclude ambiguity in interpreting the current version of the law and the need for a preliminary approval of transactions with regard to subsoil users if the Russian Federation loses control over them

- Clarify the concept of an “agreement”, which shall mean any arrangements and actions by foreign investors for joint voting at the governing bodies of strategic companies;
- Establish an obligation for foreign investors to notify about completing transactions preapproved by the Government Commission for Control over Foreign Investments in the Russian Federation.

40. These changes are aimed at eliminating excessive administrative barriers for foreign investors completing transactions with strategic business entities. The draft law has passed the first reading in the State Duma.

1.3.3 Customs Regulations

41. The Government of the Russian Federation prepared No. 130555-6 draft Federal Law “On Introducing Amendments to the No. 311-FZ Federal Law “On Customs Regulation in the Russian Federation” of 27th November 2010 with active involvement of FAS representatives. The draft Law has been approved by the State Duma of the Russian Federation in the first reading.

42. The draft Law excludes possibility to exercise entrepreneurial activities in customs matters by state unitary enterprises as well as their subsidiaries or depending companies, created by the Federal Customs Service of Russia. This measure minimizes the risk of excessive influence of the state bodies upon the market of customs services. Thus, it creates more favourable conditions for fair competition between legal entities involved in customs matters, which eventually will increase the quality of services and reduce the prices.

43. The measures towards excluding possibility to exercise entrepreneurial activities in the customs matters by the institutions subordinate to the Federal Customs Service are also included in the Road Map on “Improving Customs Administration”, approved by No. 1125-r Decree of the Government of the Russian Federation of 29th June 2012.

1.4 Agreements on Cooperation

44. In 2012 FAS continued the practice of concluding cooperation agreements with other state and municipal bodies of the Russian Federation and a number of associations in order to ensure timely and efficient cooperation in exposing and suppressing violations of the antimonopoly law. In particular, FAS concluded a landmark agreement with the Investigation Committee of the Russian Federation, which is a significant achievement of FAS through which cooperation with the law enforcement bodies has reached a brand new level.

45. FAS devised a draft Agreement for improving the mechanisms of selling oil products (the Agreement) to be concluded by the interested executive bodies and market participants (the Exchange Council). The purpose of the Agreement is to prepare proposals on improving the mechanisms for establishing representative price indicators on the markets of oil products and the main principles for organizing exchange trading with oil products.

46. Cooperation between the participants to the Agreement will improve enforcement practice in the oil sector, and, therefore, ensure pricing transparency and unified requirements to economic entities regarding trading, and form the basis for establishing market, non-discriminatory mechanisms for sale of oil products.

47. In 2012 FAS continued the practice of concluding bilateral agreements of a “new type” on cooperation with foreign competition authorities that include mechanisms of cooperation in investigations and control over economic concentration:

- The Agreement on Cooperation in the field of competition policy between the Federal Antimonopoly Service (FAS Russia) and the Commission for Competition Protection of the Republic of Serbia (05.12.2012, Belgrade)
- The Memorandum of Understanding between the Federal Antimonopoly Service (FAS Russia) and Italy’s Competition Commission (04.2012, Rio-de-Janeiro)

48. In 2012 FAS also concluded agreements on cooperation with foreign competition authorities:

- The Memorandum of Understanding in the field of competition policy between the Federal Antimonopoly Service (FAS Russia) and the Competition authority of the Republic of France (Paris, 16.02.2012)
- The Agreement on Cooperation in the field of competition policy between the Federal Antimonopoly Service (FAS Russia) and Portugal’s competition authority (Rio-de-Janeiro, April 2012)
- The Memorandum of Understanding and Cooperation in the field of antimonopoly policy and unfair competition between the Federal Antimonopoly Service (FAS Russia) and Mongolia’s Agency for Regulating Unfair Competition for 2012-2013.

2. Enforcing Competition Law and Carrying Out Competition Policy

49. To prevent and suppress anticompetitive practices, in 2012 FAS initiated *10,009* cases, on which *9839* antimonopoly violations were exposed. Overall, FAS imposed fines for 11.38 billion Rubles (around US \$ 370 millions).

2.1 Efforts against Monopolistic Activities

2.1.1 Description of the Efforts of Competition Bodies and Courts of Law

50. In 2012 FAS initiated 2874 cases upon signs of monopolistic activities (abusing dominance, anticompetitive agreements and concerted actions of economic entities) on goods and financial markets.

- Suppressing Abuses of Dominance

In 2012 the antimonopoly bodies received 16,200 petitions about abusing dominant positions by economic entities. FAS opened 2582 cases (308 – upon initiatives of the antimonopoly bodies); in 675 incidents the proceedings were terminated due to unconfirmed facts of violations. Out of the remaining cases, FAS made 1907 decisions to recognize violations and issued 1 379 determinations. 696 decisions issued in 2012 were appealed. Courts pronounced legitimacy of 127 decisions in full and fully invalidated 26 decisions, partly invalidated 7 decisions, judicial proceedings on other cases have not been completed.

- The Institutions of “Warnings” and “Admonitions”

The “third antimonopoly package” introduced a number of new institutions to the antimonopoly law. The institution of warnings has become an important novelty. Warnings to stop actions (omissions) that have signs of antimonopoly violations shall be issued by antimonopoly bodies to economic entities that have dominant position if signs of violating Clauses 3 and 5 Part 1 Article 10¹ of the Federal Law “On Protection of Competition” are identified. The purpose of issuing a warning is to suppress actions (omissions) that lead or can lead to preventing, restricting, eliminating competition.

A warning can be issued before initiating an antimonopoly case, or in the course of investigating an antimonopoly case. Making a decision to initiate a case on breaching Clauses 3 and 5 Part 1 Article 10 of the Federal Law “On Protection of Competition” without issuing a warning and before the period of exercising the warning is over is not allowed.

If an economic entity executed a warning, an antimonopoly case shall not be opened and such economic entity shall not be held administratively liable.

The warning practice in 2012 showed that using new powers enables FAS to promptly react to antimonopoly violations, facilitate their fast elimination and resolving legal relations in dispute.

Applying the new institution has had a significant impact upon a nearly threefold reduction of cases initiated under Clauses 3 and 5 Part 1 Article 10 of the Federal Law “On Protection of Competition”. In 2011 FAS initiated 952 cases under Clauses 3 and 5 Part 1 Article 10 (471 – Clause 3 and 481 - Clause 5), and in 2012 - 366 cases (198 – Clause 3 and 168 - Clause 5).

Overall FAS issued 1423 warnings in 2012. Warnings had been issued more actively in the second six months of the year 2012: an increase by nearly 40 %. Majority of the warnings were issued by the regional FAS Offices (98.7%). 75% of warnings have been exercised by economic entities in due time.

¹ Clause 3 Part 1 Article 10 – “Imposing disadvantageous contract conditions upon a counteragent or irrelevant to the contract (economically or technologically unjustified and (or) not provided for directly by the federal laws, normative legal acts of the President of the Russian Federation, normative legal acts of the Government of the Russian Federation, normative legal acts of the authorized federal executive bodies or judicial acts, requirements to transfer financial means, other property, including property rights, as well as a consent to conclude a contract under a condition of including in it provisions regarding goods in which the counteragent is not interested, and other requirements)”;

Clause 5 Part 1 Article 10 – “Economically or technologically unjustified refusals or avoiding contracts with particular buyers (customers) if there is possibility of producing or supplying the goods, and if such refusals or avoiding are not directly provided for by the federal laws, normative legal acts of the President of the Russian Federation, normative legal acts of the Government of the Russian Federation, normative legal acts of the authorized federal executive bodies or judicial acts”.

Antimonopoly bodies shall send admonitions (introduced to the Federal Law on competition)² prohibiting actions that can lead to violating the antimonopoly law to officials of economic entities that make public statements about a planned conduct on the market if such conduct can lead to violating the antimonopoly law. The purpose of such an act by the antimonopoly body is to prevent violating the antimonopoly law.

Overall in 2012 the antimonopoly bodies issued 73 admonitions. Most of them (94.5%) were issued by the regional Offices of FAS Russia.

- Suppressing Anticompetitive Agreements and Concerted Actions of Economic Entities

On 2012 the antimonopoly bodies received 1165 petitions about competition-restricting agreements and concerted actions of economic entities. Majority of petitions were filed in relations to imposing disadvantageous contract conditions – 22%; fixing (maintaining) prices (rates), discounts, mark-ups, surcharges - 16%; increasing, decreasing or maintaining prices at tenders and auctions – 16%. FAS initiated 294 cases, of which 91 upon initiatives of the antimonopoly bodies. Violations were recognized on 187 cases and 321 determinations were issued. 80 decisions made in 2012 were appealed; of which Courts pronounced legitimacy of 4 decisions, fully invalidated 4 decisions, one decision was found to be partly invalid, others are being considered by Courts.

- Administrative Leniency Practice

The leniency programme has been in force in Russia since 2007.

Under the Russian law, only the first applicant can expect administrative leniency for taking part in a cartel.

In 2012 FAS received 13 applications for administrative leniency for taking part in a cartel.

The main markets investigated on the basis of the applications included the market of notary services, pharmaceuticals, and some others.

²

Article 25.7. Admonitions prohibiting violations of the antimonopoly law

1. To prevent violations of the antimonopoly law, the antimonopoly authority shall send a written admonition to an official of an economic entity prohibiting certain actions that can lead to violating the antimonopoly law (an admonition).

2. An admonition shall be sent upon an official of an economic entity making a public statement about a planned market conduct if such conduct can lead to violating the antimonopoly law and there are no grounds for initiating and investigating a case on violating the antimonopoly law.

3. A decision to send an admonition shall be made by the head of an antimonopoly body no later than ten days after the date when the antimonopoly body became aware of a public statement made by an official of an economic entity about a planned conduct on the goods market.

4. An admonition must contain:

1) Conclusions on the grounds for issuing an admonition

2) The norms of the antimonopoly law that could have been violated by an economic entity.

5. The federal antimonopoly body approved the procedures for sending admonitions.

- Criminal Liability for Violating the Antimonopoly Law

Violations of the antimonopoly law are punishable by administrative as well as criminal sanctions. Criminal liability is specified in the Criminal Code of the Russian Federation.

For instance, under Article 178 of the Criminal Code, preventing, restricting, eliminating competition by economic entities concluding a competition-restricting agreement (cartel), repeatedly abusing market dominance by fixing and (or) maintaining monopolistically high or low price, unreasonably refusing or avoiding a contract, restricting market entry, if such actions caused heavy damages for physical persons (around US\$ 32,000), organizations or the state, or resulted in gaining income over 5 million Rubles (around US\$ 160,000), physical persons can be held criminally liable (Russian law does not specify criminal liability for legal entities). The Criminal Code includes various sanctions; the maximum punishment is imprisonment for the period of up to seven years.

The Ministry of Interior of the Russian Federation is the body authorized to carry out criminal prosecution of violations of Article 178 of the Criminal Code.

In 2012 FAS undertook a number of measures to explain the FAS position to the officers of the Ministry of Interior on enforcement and strengthening inter-branch cooperation, including meetings of the Head of FAS with the Minister and other top officers of the Ministry of Interior.

Regional FAS Offices also make efforts to support cooperation with law enforcement bodies on the issues of criminal prosecution for participating in cartels.

The amount of materials forwarded by the antimonopoly bodies to the bodies of interior affairs to initiate criminal cases, including materials containing signs of crimes committed under Article 178 of the Criminal Code is continually increasing. Overall, in 2012 FAS transferred to the law enforcement bodies the materials on 26 cartel cases to initiate criminal cases. 4 criminal cases have been opened (all cases under investigation, sentences have not been imposed yet).

Representatives of the law enforcement bodies of the Russian Federation have expanded their involvement in “dawn raids” carried out by the antimonopoly bodies. FAS Anti-Cartel Department organized over 20 “dawn raids”, involving representatives of the Prosecutor’s Office, the bodies of the Ministry of Interior, and the Federal Security Service.

2.1.2 *Typical Cases*

- Suppressing Abuses of Market Dominance

Sulfur Market

The main producers of sulfur in the Russian Federation are companies that are included in the same group of persons with “GAZPROM” OJSC, with over 50% share on the market of liquid sulfur. In March 2011 prices for liquid sulfur increased by 246% in comparison with February 2011 and the growth continued throughout 2011. “GAZPROM” OJSC was fixing sulfur prices in accordance with a devised formulae for calculations, which depended on the world prices for sulfur and diammonium phosphate, and some coefficients.

The FAS Commission concluded that the global prices for diammonium phosphate and application of increasing coefficients depending on the world prices for this type of phosphorus-containing fertilizers did not affect the costs of sulfur production and the conditions of its sales on

domestic market, and could not be used to calculate the price. FAS imposed an administrative fine upon “GAZPROM” OJSC for fixing monopolistically high price – 17,525,592.8 Rubles (around US\$ 550,000). The Court supported the FAS decision.

- The Practice of Using the Institutions of “Warnings” and “Admonitions”

Medical Equipment Market

FAS found that Edwards Lifesciences S.A. (Switzerland) violated the antimonopoly law by imposing disadvantageous requirements to the conditions of an additional agreement to an international distribution agreement. Also Edwards Lifesciences S.A. unreasonably avoided concluding a direct distribution agreement with “Green Medica” Ltd.

FAS warned Edwards Lifesciences S.A. to stop such actions (omissions). Edwards Lifesciences S.A. notified FAS about executing the warning within the period specified in the warning.

Milk Market

Tyumen OFAS Russia discovered that an official of Danone-Unimilk Russia had made a statement about pricing for dairy products, including purchasing prices for raw milk set by the company in the region. This public statement of the official was classified as information about planned conduct of the company. The official was issued an admonition prohibiting actions that can lead to fixing or maintaining prices by economic entities on the relevant market.

A case with an International Flavour

In the case against “BelAZ” Trading House” CJSC (Russia), “BELAZKOMPLEKT PLUS” CJSC (Russia) and “Belorussian Car Plant” OJSC (Belarus) FAS applied the extraterritoriality principle specified in the Law “On Protection of Competition”.

Under Part 2 Article 3, the norms of the Law “On Protection of Competition” are applied to the agreements concluded between Russian and (or) foreign persons or organizations outside the Russian Federation and to the actions exercised by them if such agreements or actions affect the state of competition in the Russian Federation.

The case concerned jurisdiction of both the Russian Federation and the Republic of Belarus. A foreign company - “Belorussian Car Plant” OJSC coordinated participants of the market of dump trucks in the Russian Federation, which resulted in dividing the market under a geographical principle and under the categories of sellers and buyers, and ultimately eliminated competition between dealers.

“Belorussian Car Plant” OJSC was held administratively liable. The company was fined 119.5 million Rubles. “Belorussian Car Plant” OJSC executed a determination issued by FAS and withdrew the letters requiring dealers and buyers to purchase dump trucks from certain dealers.

The competition authorities of Russia and Belarus were engaged in active cooperation in the course of the case investigation.

- The Practice of Suppressing Competition-Restricting Concerted Actions of Economic Entities

Pollock Market

In 2006 producers of Pollock in the Russian Far East organized a cartel aimed at fixing prices, regulating the volumes of Pollock production, and selling Pollock products. Some foreign companies (China) also were involved in creating and taking part in the cartel.

An investigation was conducted simultaneously with investigating violations of the law of the Russian Federation on investments in strategic companies. The main evidence on the case was the materials obtained in the course of surprise inspections carried out jointly with the Federal Security Service. The actions of the antimonopoly bodies as well as the Government Commission for Control over Foreign Investment in the Russian Federation resulted in breaking up the cartel and the largest re-division of the market of harvesting biological resources.

Out of 52 companies (the respondents on the case), FAS found that 26 companies violated the antimonopoly law and the Association of Pollock Catchers unlawfully coordinated economic activities of enterprises. The antimonopoly violations were classified under Clauses 1 and 4 Part 1 and Part 5 Article 11 of the Federal Law "On Protection of Competition".

Administrative cases are at the stage of being initiated. It is expected that fines will reach several billion Rubles (several million US dollars). The case materials are forwarded to the Federal Security Service, the Ministry of Interior, and tax and customs bodies.

Pharmaceuticals Market

One of the benchmark decisions made by FAS in 2012, legitimacy of which was confirmed by supreme Court Instances in Russia, was the decision that two large pharmaceutical companies had concluded a cartel agreement.

In February 2013, the Panel of Judges of the Supreme Arbitration Court of the Russian Federation confirmed legitimacy of the FAS decision regarding the fact of a cartel agreement between two large participants of the pharmaceutical market – "R-Pharm" CJSC and "Irvin-2" Ltd., implemented at a tender for purchasing medicines organized by the Ministry of Health Care and Social Development. "Irvin-2" Ltd. won the tender for supplying capsules and tablets of mycophenolate mofetil (used for transplanting organs and tissues), while "R-Pharm" CJSC practically refused to compete. Seven days after the tender "Irvin-2" Ltd. bought the medicine required for the contract directly from "R-Pharm" CJSC. The sum of the contract was 99,899,280 Rubles (approximately US\$ 3,150,000).

Big-Rigging

In the course of electronic auctions for purchasing food products for the state needs, members of a cartel (an individual entrepreneur Eske, "Sirius" Ltd. and "Blits" Ltd.) used a pattern of behavior called "ramming" by persons involved in public procurement: during the auctions two participants of an anticompetitive agreement pretended they were actively involved in bidding against each other and decreased the price sharply (to 90% of the initial contract price). Bona fide bidders lost interest in the auction. At the last moment of the auction, the third member of the cartel made a bid insignificantly lower than a bid of a bona fide participant or the initial (maximum) contract price. Then the cartel participants who took the first and second position refused to sign the contract. Thus, the contract had to be concluded with the third participant, whose price differed insignificantly from the initial price.

FAS initiated two cases against the legal entities and found that the above auction bidders violated the antimonopoly law by concluding and taking part in the agreement that resulted in

maintaining prices at the auction. The companies were fined over 3.5 million Rubles (approximately US\$ 110,000). The Court supported the FAS decision.

- Concerted Actions

Smartphone Market

The importers of Apple products to the Russian Federation – “VympelCom” and “MTS” fixed the same prices for iPhone 4 16 Gb and iPhone 4 32 Gb, changing them simultaneously and in a unified manner. The main evidence was obtained through surprise inspections. The respondents admitted the fact of the violation and legal entities were fined over 35.5 million Rubles (approximately US\$1,100,000); the companies did not appeal. Upon the outcome of the investigation, Apple changed the structure of importers and the systems of sales.

2.2 State Control over Economic Concentration

2.2.1 Statistical Data on the Number, Scope and Type of Transactions, of which the Antimonopoly Authority was Notified and/ or which were Controlled under the Competition Law

51. In 2012 FAS considered 2494 pre-merger notifications and 1943 post-merger notifications from economic entities: granted (took note of) – 2449 pre-merger notifications (of which 229 with issuing determinations) and 1933 post-merger notifications; refused – 45 pre-merger notifications and 10 post-merger notifications.

2.2.2 Typical Cases

- Approving Pre-Merger Notifications with Issuing a Determination

FAS analyzed the wholesale market of granite macadam due to investigating a pre-merger notification of “National Non-Metallic Company” OJSC (NNK) about acquiring 100% voting shares of “Pavlovskgranit” OJSC as well as a pre-merger notification of NNK on acquiring 75% voting shares of “First Non-Metallic Company” OJSC (PNK).

As information, FAS used the data from the above companies and other sources. The time interval of the study was 2011-2012.

Having researched the wholesale market of granite macadam, FAS identified signs of “Pavlovskgranit” OJSC having the dominant position within the boundaries of the Central Federal District. FAS granted NNK the pre-merger notifications on acquiring 100% voting shares of “Pavlovskgranit” OJSC and 75% voting shares of PNK. Both decisions were accompanied by determinations, the second one contained structural remedies.

- Granting a Pre-Merger Notification

In 2012, FAS considered a petition on acquiring 70% of the statutory capital of “BNP Pariba Vostok” Commercial Bank” Ltd. by the “Savings Bank of Russia” OJSC.

Having made the necessary calculations, FAS concluded that despite the “Savings Bank of Russia” OJSC possibly having a dominant position on the regional markets of banking services, acquiring 70% of the statutory capital of “BNP Pariba Vostok” Commercial Bank” Ltd. will not restrict competition on these markets and on the market of factoring services in view of the specifics of the transaction.

FAS granted the pre-merger notification on the transactions without issuing a determination.

- Dismissing a Pre-Merger Notification

FAS dismissed a pre-merger notification of “Gazprombank” OJSC for acquiring 50.9% voting shares of “Moscow Integrated Grid Company” OJSC in trust management because the transaction in question would result in combining activities for transmitting electric power with electric power generation by legal entities affiliated with “Gazprom” OJSC.

2.3 State Control over Competition-Restricting Acts, Actions, Agreements or Concerted Actions of Federal Executive Bodies, the Authorities of the Constituent Territories of the Russian Federation, Local Self-Government Bodies, Other Bodies or Organizations Assigned the Functions of the Above Bodies, the Central Bank of the Russian Federation

2.3.1 Efforts of Competition Authorities and Courts

52. In 2012, as in 2011, a significant number of antimonopoly violations were committed by the authorities. FAS initiated 5386 cases under Articles 15, 16, 17, 17.1, 18, 19-21, and 25 of the Federal Law “On Protection of Competition”.

53. In 2012 FAS investigated 4042 petitions about acts and actions of the authorities (Article 15). 1439 of them were filed regarding unreasonable prevention of activities of economic entities. 3299 cases were initiated. Violations were found in 2890 cases and 2049 determination were issued. 445 decisions were appealed, of which Courts pronounced full legitimacy of 126 decisions, partially valid – 2 decisions, fully invalid - 8, and on 309 cases judicial procedures continue.

54. In 2012 FAS received 394 petitions regarding anticompetitive agreements (concerted actions involving the authorities (Article 16). 42% petitions were filed about restricted market entry / exit. 549 cases were opened, including upon FAS initiatives. Violations were recognized on 491 cases and 542 determinations were issued. Of 101 appealed decisions, Courts pronounced full legitimacy of 26 decisions, 4 were found fully invalid and 71 decisions are under judicial consideration.

55. 2416 petitions were filed with regard to failure to comply with the antimonopoly requirements to competitive bidding (Article 17). Majority of the petitions (594) related to unreasonably restricting participation in bidding and to violating the procedures for determining the winner (365) and creating advantageous conditions for participating in bidding (322). FAS initiated 1125 cases. Violations were found in 919 cases and 455 determinations were issued. 172 decisions were appealed. Courts pronounced full legitimacy of 70 decisions, one was found partly valid and 14 – fully invalid, while 87 are being considered by Courts.

2.3.2 Typical Cases

- Suppressing Competition-Restricting Acts and Actions of the Authorities

The case was initiated upon a petition of “Mosselprom” CJSC regarding signs of violating the antimonopoly law by actions of the Ministry of Agriculture of the Tula region. The Ministry refused to grant a subsidy to compensate the costs of producing poultry in the Tula region in QI 2011. FAS suppressed the actions of an executive body of a constituent territory of the Russian Federation that unlawfully set a differentiated approach to economic entities that had the right for state support in the form of a subsidy.

For the first time the practice of private lawsuits was used for recovering damages incurred by an economic entity as a result of unlawful actions (omission) by an authority. The FAS decision was supported by Court.

- Suppressing an Unlawful Requirement for Certificates of Self-Regulated Organizations

Investigating the case, FAS established that two units of extra-departmental security service of Ministry of Interior issued a joint order that required to obtain certificates issued by self-regulated organizations on permit for the design and assembly works, and one of the units, its branches and other persons certified by self-regulated organizations received preferential conditions for market entry. The FAS decision on violating Article 16 of the Federal Law “On Protection of Competition” was supported by Court.

- Violations of the Antimonopoly Law at Competitive Bidding on the Market of Supplying Goods for Postage Services

FAS exposed a violation of Part 1 Article 17 of the Federal Law “On Protection of Competition” on the market of supplying goods (operating supplies) for postage services in the Russian Federation. “Russian Post” Federal State Unitary Enterprise can exercise a decisive influence upon circulation of such goods as a buyer). The market is a monopoly.

The actions of the buyer that restricted competition on the market of production and sales of good (operating supplies) designed (mainly used) for postage services restricted market entry of both producers of certain type of postage products (envelopes, packages, seals) as well as the goods sellers.

2.4 *Actions to Suppress Unfair Competition*

2.4.1 *Efforts of Competition Bodies and Courts*

56. The overall number of petitions considered by FAS in 2012 to prevent and suppress unfair competition (Article 14 of the Federal Law “On Protection of Competition”) reached 2485. FAS initiated 1038 cases; on 891 of them violations were found and 660 determinations were issued. 23% of all cases initiated upon facts of unfair competition related to misleading consumers, 16% - to selling goods unlawfully using the results of intellectual activities, and 14% - dissemination of false information.

57. 161 decisions made by FAS in 2012 were appealed. The Courts pronounced full legitimacy of 49 decisions, 2 were found partly invalid and 2 – fully invalid. The remaining 108 decisions are under consideration.

2.4.2 *Typical Cases on Unfair Competition*

- Unfair Competition Related to Acquiring and Using the Exclusive Rights for the Means of Product Individualization

“Natur Product International” CJSC acquired exclusive rights for a verbal mark known from the Soviet period and used by various producers. FAS classified the actions of “Natur Product International” CJSC on acquiring and using exclusive rights for “AntiGrippin” verbal mark as unfair competition. The decision was supported by Courts.

- Unfair Competition on the Market of Banking Services

After “Uniastrum Bank” Ltd., “Investtorgbank” OJSC and “SKB-bank” OJSC attracted monetary resources of physical persons as deposits, the violators significantly worsened consumer attributes of the deposits in comparison with the initially stated ones. Courts confirmed legitimacy of the decisions and determinations issued by the FAS Commission regarding the banks. “Uniastrum Bank” Ltd., and “SKB-bank” OJSC executed the determinations and returned in total over 16 million Rubles to their depositors. “Investtorgbank” OJSC also executed the determination, in particular, withdrawing an unlawful ban on additions to deposits.

3. The Role of Competition Bodies in Shaping and Implementing Other Policies

3.1 Administrative Reform and Anti-Corruption Efforts

58. On an ongoing basis FAS undertakes measures of the administrative reform designed to increase efficiency of performance of the antimonopoly authority.

59. In 2012 FAS continued supporting the functioning of the Working Group on optimizing the structure and functions of federal executive bodies (the Working Group). The Group is under the guidance by the Government of the Russian Federation and is led by the Head of FAS Igor Artemiev.

60. The most significant results of the efforts of the Working Group in 2012 can be outlined as follows:

The proposals of the Working Group for optimizing the functions and the powers of the Ministry of Emergencies of the Russian Federation are approved by the Government Commission on the Administrative Reform. No 341-r Order of the Government of the Russian Federation of 15th March 2012 approved the Action Plan for optimizing controlling-and-supervisory and licensing functions, rendering state services, and reducing excessive regulation of the work of the Ministry of Emergencies.

61. On 24th January 2012 the Government Commission on the Administrative Reform considered the Recommendations of the Working Group on optimizing the work of the executive bodies in the field of using natural resources. No 329-r Order of the Government of the Russian Federation of 6th March 2012 approved the Action Plan for improving controlling-and-supervisory and licensing functions and optimizing state services in use of natural resources in the part of protecting the environment, production and consumption waste treatment and subsurface use.

3.2 External Audit: ISO 9001:2008

62. In December 2012 the Central Office of FAS Russia underwent external audit of the quality management system and confirmed compliance with ISO 9001:2008 international standard. Based on the outcome of the annual inspection, an authority for certifying management systems – “Test-St Petersburg” Ltd. – confirmed validity of the earlier issued certificate which shows efficient performance of the quality management system of the Central Office in 2012. Four regional Offices of FAS also successfully completed certification for compliance with ISO 9001:2008.

3.3 Control over Foreign Investments in the Strategic Sectors of the Economy

63. In 2012, under No.57-FZ Federal Law “On the Procedures of Foreign Investments in the Business Entities of Strategic Importance for the National Defence and State Security” of 29th April 2008,

53 petitions from foreign investors were subject to FAS consideration (of which 16 petitions were transferred from 2011, and 37 petitions were filed in 2012).

64. Enforcing the Law, in 2012 FAS considered 44 petitions from foreign investors, of which:

- 22 petitions were considered by the Government Commission for Control over Foreign Investments in the Russian Federation (the Government Commission) and pre-approval decisions were made (including 12 decisions with the condition of concluding an agreement to ensure execution of the obligations specified by the Commission);
- 18 petitions were returned to the petitioners for the reasons of not establishing control over strategic economic entities (8), exercising transactions between organizations under control by tax residents of the Russian Federation (6), exercising transactions by international financial organizations formed in accordance with international treaties (3) and because the law does not cover relations regarding foreign investments regulated by other acts (1).
- 4 petitions were withdrawn due to changed intentions to complete the transactions in question.

65. There were no incidents of appealing the decision made by the Government Commission to Court of Law.

3.4 Ensuring Non-Discriminatory Access

3.4.1 Chemical Industry and Agro-Industrial Complex

66. To prevent violations on the markets of raw materials for production of complex mineral fertilizers (apatite concentrate and potassium chloride), in 2012 FAS finalized the Recommendations for ensuring non-discriminatory access to acquiring raw materials for their production. The Recommendations determine the conduct of economic entities on the relevant markets that FAS shall not consider as breaching the antimonopoly law. Adopting the Recommendations must positively affect prices on the markets of mineral fertilizers and ensure compliance of the regulatory policy over these markets in the Russian Federation with the WTO standards.

67. In 2012, due to Russia joining WTO and completing the period of transition specified in the protocol of a meeting chaired by First Deputy Chairman of the Government of the Russian Federation, Igor Shuvalov, for the market of potassium chloride, FAS revised the Recommendations taking into account the need to:

- Consider the obligations related to Russia's membership in WTO
- Apply a market mechanism of pricing for apatite concentrate and potassium chloride
- Establish a period of transition to allow consumers adapting to the new conditions.

68. The Recommendations is the key document on antimonopoly regulation over the monopolized markets of apatite concentrate and potassium chloride. The Recommendations were placed on FAS official web-site and forwarded to market participants.

3.4.2 *Regulations on the Procedures and Conditions for Selling Rough Diamonds by “ALROSA” OJSC*

69. Preventing monopolistic activities of economic entities that lead or can lead to preventing, restricting, eliminating competition and (or) infringing the interests of other economic entities is one the most important functions of the antimonopoly body.

70. To this purpose FAS devised the fundamental principles of selling natural diamonds mined by “ALROSA” OJSC that exclude a discriminatory approach to the buyers of rough diamonds and ensure equal conditions for access to rough diamonds in order to develop competition on the market of polished diamonds (brilliants) and jewelry as well as regulate the existing issues with functioning of the market of natural diamonds. In particular, relations between diamond-cutters with the supplier of rough diamonds - “ALROSA” OJSC shall be based on observing the rules for non-discriminatory access to acquiring rough diamonds.

71. FAS drafted the following documents: the Sales Regulations and the Trading Regulations designed to create conditions for efficient functioning of the market of natural diamonds, protect competition on the market of sales of natural diamonds by eliminating exclusivity of the relations between the supplier and buyers of rough diamonds, ensure equal conditions for access of buyers to the goods and eliminate the obstacles for entry of new participants to the market.

72. FAS secured publicity of the policy of “ALROSA” OJSC with regard to selling rough diamonds: the company created a specialized web-site designed to support the existing and potential consumers of rough diamonds.

73. To ensure equal conditions for access of consumers of rough diamonds, in 2012 FAS agreed upon the provisions drafted by “ALROSA” OJSC that determined the procedures and conditions for selling natural diamonds by “ALROSA” OJSC on domestic market. The documents are devised for the general public and the requirements for potential buyers meet the criteria excluding consumer discrimination.

3.4.3 *Airport Services*

74. According to the practice of aircraft ground handling in the airports of the EU states, changes and additions to Part 3 Article 10 of No.135-FZ Federal Law “On Protection of Competition” and an analysis of the enforcement practice of the Rules for ensuring access to the services of natural monopolies in airports (approved by No.599 Decree of the Government of the Russian Federation of 22nd June 2009), FAS devised a draft Decree of the Government of the Russian Federation “On Introducing Amendments to No.599 Decree of the Government of the Russian Federation “On the Procedures for Ensuring Access to the Services of Natural Monopolies in Airports” of 22nd June 2009” (further on referred to as the Draft Changes) that establishes the general principles and the procedures for non-discriminatory access to the services for some types of ground handling using airport infrastructure facilities as well as to the infrastructure facilities in the airports of the Russian Federation.

75. In the specified segments of the ground handling market – passenger services, aircraft refueling with aviation fuel, aviation fuel storage, cargo handling, technical maintenance of aircrafts, in the airports with the annual passenger traffic no less than one million passengers or cargo turnover no less than 25000 tons the chief operator (operator) cannot restrict the number of operators to less than two (one of which shall be independent) and/ or self-served consumers in each of the above categories of services.

76. In the airports with the annual passenger traffic over five million passengers or cargo turnover no less than 100,000 tons the chief operator cannot restrict the number of operators to less than three (two of which shall be independent) for each of the above categories of services.

3.5 *Commercial Policies*

77. To create non-discriminatory access of wholesale and retail sellers, FAS proposes that the dominant companies should form public rules for selecting their counteragents. The FAS requirement to ensure access of unlimited range of companies to the goods of the economic entities that dominate the market is aimed at eliminating exclusivity of relations.

78. To eliminate exclusive vertical relations and reduce the risks of antimonopoly investigations, FAS proposes that the dominant companies should form commercial policies that contain:

- Clear, readable, achievable and administered requirements for potential (actual) counteragents
- A description of the decision-making procedures (the decision-making system, responsible persons, deadlines, registering the decisions, storage) about concluding or refusals to conclude commercial contracts with counteragents
- Notification procedures about the decision made (a written notification, registration of communications).

79. Commercial policies must not contain subjective requirements for buyers (distributors) since such requirements allow a monopolist to unreasonably refuse or avoid concluding buying-and-selling contracts with buyers.

80. Commercial policies must be available to all potential counteragents (distributors) of the dominant companies for information.

81. When a company has a commercial policy describing clear requirements and procedures for access to the goods for potential and actual counteragents, which the company observes, it prevents the risks of initiating investigations against the company upon signs of violating the antimonopoly law.

3.5.1 *Pharmaceuticals*

82. In 2012 FAS studied draft commercial policies to verify their compliance with the antimonopoly law, and gave explanations and corrected certain provisions of such policies. In particular, “Johnson & Johnson” Ltd. devised and implemented a local normative act – the Commercial policy regulating the procedures for interacting with potential and actual counteragents and No.1 Appendix to it – the “General Conditions of Supplying the Products of Lifescan Department”. No.1 Appendix covers general supply conditions, conditions for discounts and premiums on the Lifescan products. The purpose of the Appendix is to increase sales, ensure continued supplies, and reduce the costs of “Johnson & Johnson” Ltd. for selling products and ensure a maximally efficient, equal and fair attitude to all counteragents that sell Lifescan products.

83. After grating the pre-merger notification of “Johnson & Johnson” Ltd. on acquiring the right that enables to determine the conditions of entrepreneurial activities of “Sintez” CJSC, FAS studied a local normative act of “Sintez” CJSC – the Commercial policy regulating the procedures for interacting with potential and actual counteragents.

84. Verifying the compliance of the draft written agreement (an agency agreement) between “Aventis Pharma” CJSC and “Pharmstadart” OJSC with the norms of the antimonopoly law, FAS studied the Commercial policy regulating interaction of “Pharmstadart” OJSC with counteragents exercising the agent’s functions in accordance with the agency agreement between “Aventis Pharma” CJSC and

“Pharmstadart” OJSC. FAS also analyzed the Regulations of relations between “Aventis Pharma” CJSC (the Principal) and Commercial partners in an incident of “Pharmstadart” OJSC (the Agent) refusing or avoiding agreements (contracts) for buying-and-selling contracts with the third parties, a refusal of the Agent to supply under the valid buying-and-selling contracts or avoiding supplies to the third parties under the valid buying-and-selling contracts.

3.6 *Developing Competition in the Infrastructure Sectors Including Natural Monopolies*

85. Upon a FAS proposal, the Road Map on “Developing Competition and Improving Antimonopoly Policy” comprises measures for developing competition in the infrastructure sectors, including natural monopolies.

86. The objectives are:

- To introduce in the system of state regulation of some industries the method of economically justified return on investment, the method of comparative analysis and other “quasi-competitive” mechanisms that provide for setting a long-term tariff ensuring an acceptable rate of return on investment, and a mechanism stimulating cost reduction and maintaining a particular quality of services
- To ensure efficiency of purchasing activities of natural monopolies by setting mandatory requirements to organization of competitive bidding
- To separate certain types of works from activities of natural monopolies that must be carried out by external companies on a competitive basis
- To intensify the efforts towards developing competition in the areas adjacent to natural monopolies, in particular, by separating entities exercising competitive and naturally monopolistic activities.

87. The Road Map specifies some measures implementing which would create conditions for both developing competition in natural monopolies (or separating competitive types of activities) and on adjacent markets, and improving the state regulation of natural monopolies, particularly:

- Devising programmes for developing competition in each field
- Introducing a system of Market Councils and exchange trading
- Control over investment programmes of natural monopolies
- Introducing long-term stimulating regulation
- Adapting and control over the rules for non-discriminatory access
- Creating a system of monitoring, analysis and assessment of provisions on procurement by natural monopolies and organizations in the state sector of the economy.

3.6.1 *Financial Markets*

88. FAS proposals on the procedures for establishing the governing bodies of a professional association of the insurers of carrier’s liability for inflicting harm to passenger’s life, health, property and

on the procedures for compensating the harm inflicted in the course of passenger transportation by metro, based on the principles of equal rights of the members of professional association of insurers for representation in elections of the governing bodies of the professional association of insurers and for taking part in managing the association were legislated in Part 8 Article 20 of No. 67-FZ Federal Law “On Mandatory Civil Liability Insurance of Carriers for Inflicting Harm to Passengers’ Life, Health, Property and on the Procedures for Compensating the Harm Inflicted in the Course of Passenger Transportation by Metro” of 14th June 2012.

89. This norm will eliminate possibility of several economic entities unilaterally influencing the general conditions of goods circulation on the market and creating unjustified barriers for entry and operation of insurance companies on the market of mandatory civil liability insurance of carriers for inflicting harm to passengers’ life, health, property.

90. To adjust FAS powers in line with No. 40-FZ Federal Law “On Mandatory Civil Liability Insurance of Vehicle Owners” of 25th April 2002 and No. 67-FZ Federal Law “On Mandatory Civil Liability Insurance of Carriers for Inflicting Harm to Passengers’ Life, Health, Property and on the Procedures for Compensating the Harm Inflicted in the Course of Passenger Transportation by Metro” of 14th June 2012, FAS devised No. 1345 Decree of the Government of the Russian Federation “On Introducing Amendments to the Regulations on the Federal Antimonopoly Service” of 20th December 2012 that adds to FAS powers the function for agreeing upon professional rules (standards) of professional associations of insurers in the cases specified by the law of the Russian Federation.

91. These norms will make FAS policy on preventing antimonopoly violations by professional associations of insurers on the relevant insurance markets more efficient.

3.6.2 Domestic Passenger Air Transportation Services

92. To develop the market of air transportation, a number of programmes were devised with active FAS involvement, and then approved by the Government of the Russian Federation.

93. The Government approved a set of measures designed to reduce the costs of air transportation on domestic routes, in particular, ensuring possibility to apply non-returnable rates, optimizing the rate structure, improving the mechanisms of state support for aircraft leasing, liberalizing customs regulations for imported aircrafts, expanding access of new, particularly low-cost carriers to the regional and local lines by decreasing initial investments and boosting competition on the market with reduction of the minimum number of aircrafts required for an operator.

94. No. 2579 Decree of the Government of the Russian Federation of 28th December 2012 approved the Action Plan (Road Map) towards developing competition and improving the antimonopoly policy. The section on “Air Transportation Market” specifies the measures aimed at developing competition in airports, creating conditions for establishing a segment of low-cost air transportation, creating conditions for developing regional transportation, improving tariff regulation of airport services using the methods of comparative analysis.

95. Additional measures for developing regional transportation are given in the Road Map for Developing Regional Air Transportation, approved by the Government of the Russian Federation. The measures outlined by the Road Map are aimed at developing the infrastructure of regional transportation, improving the subsidizing mechanisms, renewing the fleet of aircrafts, reducing carrier costs, training cabin crews and maintenance personnel for regional aviation, and developing competition in airports.

3.6.3 *Telecommunications Services*

96. FAS finds it necessary to focus on the target state of the market of telecommunications services in the Russian Federation with high degree of broadband access, free (in line with the national interests of the Russian Federation) development of technologies and technological neutrality.

97. In 2012, to evaluate possibilities of transition from the state of natural monopoly to competition with introduction of technological neutrality of telephony market regulation, the Working Group on Improving the Regulations on Telecommunications Services, chaired by FAS, put forward its proposals to the Government of the Russian Federation based on the principles of technological and network neutrality of regulation.

98. The Working Group concluded that it would be necessary to change the current normative regulation, which must be based on the principles of technological neutrality in all aspects: allocating radio frequency spectrum, licensing, building up telecommunications networks, interaction between telecommunications networks, and the requirements for providing telecommunication services.

99. The proposals of the Working Group, submitted to the Government on 31st May 2012, concerned the following main areas:

- Evaluating a transition of the market of publicly available telecommunications services from the state of a natural monopoly to a competitive market and organizing pilot projects on deregulation
- Ensuring technological neutrality of allocation of radio frequency spectrum \
- Organizing interaction of telecommunications networks based on prohibition of distorting competition on telecommunications markets, adjusting prices for call termination services in line with the actual costs incurred by a service provider, and introducing symmetrical prices for call termination services within landline networks as well as mobile telephone networks
- Harmonizing normative regulation of telephone services with use of different technologies – landline and mobile, developing common rules for providing telecommunications services
- Reducing the number of licensed activities, excluding licensing under the technological principle in view of developing the common market for telecommunications services, convergence, and functioning of communications markets in a coordinated fashion with adjacent markets (media, IT)
- Introducing changes to the normative legal acts regulating the procedures for connection and interaction of telecommunications networks, traffic transfer procedures excluding technological differentiation, determining the right of providers to transfer traffic in an optimal mode and providing for traffic transfer restrictions only if it would breach integrity and safety of a public communication network
- Optimizing the requirements for building up telecommunications networks in view of the modern methods of network-building
- Developing an institution of virtual providers of mobile telephony

- Introducing network neutrality, network openness for information exchange and absence of discrimination with regard to applications, services and technologies exercised (transmitted) via telecommunications networks
- Reforming the system of universal telecommunications service in the two main aspects: technological neutrality and introduction of personified service, maintaining functionalities (voice communication and broadband access services).

100. Majority of the proposals put forward by the Working Group are included in the Action Plan for the Road Map on “Developing Competition and Improving the Antimonopoly Policy”, the Section about “Communications Services Markets”.

101. The Road Map formalized implementation of the Rules for non-discriminatory access to the infrastructure drafted by FAS in accordance with the Federal Law “On Protection of Competition”. Non-discriminatory access shall be secured to the following facilities: cable line infrastructure; building, constructions or separate premises in them; power transmission line poles; poles; bridges, collectors, tunnels; railway precincts; road easement areas.

102. There are ongoing efforts to implement the Action Plan for integrated optimization of controlling-and-supervisory and licensing functions, rendering state services, and reducing excessive state regulation of the telecommunications sector (approved by No. 734-r Order of the Government of the Russian Federation of 26th April 2011). FAS was actively involved in drafting the Action Plan.

3.7 Developing International Cooperation in Enforcement

103. FAS continued its efforts towards developing international cooperation, particularly, in enforcement.

3.7.1 “New Level” Agreements

104. To expand international contractual legal framework, providing possibilities of international cooperation with foreign competition authorities in enforcement, in 2012 FAS signed two so-called “new level” agreements with the competition authorities of Serbia and Italy. Overall in 2009-2012 FAS signed “new-level” agreements with the competition authorities of Austria, Hungary, Spain, Mexico, the Eurasian Commission and the Commonwealth of Independent States.

105. “New level” agreements provide for such forms of cooperation in enforcement as consultations on specific cases, information requests, accounting for mutual interests in investigations of particular cases, coordinating activities in the course of case investigations.

106. Implementing the agreements enables FAS to be involved in action-oriented cooperation with foreign competition authorities on specific cross-border cases of violating the competition law and participate more robustly in suppressing cross-border anti-competitive actions.

3.7.2 Cooperation under the Framework of Integration Associations

107. At the beginning of 2012 the set of the agreements that established the contractual legal framework of the Common Economic Space of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation came into force.

108. Overall 2012 can be characterized as a period of active implementation of all agreements establishing the contractual legal framework of the Common Economic Space, and providing for drafting

the necessary follow-up documentation. Such documents include the Agreements on the Common Principles and Rules of Competition of 9th December 2010 (further on referred to as the Competition Agreement) that determines the architecture of the system of antimonopoly regulation within the Common Economic Space.

109. The system of antimonopoly regulation in the Common Economic Space includes realization of competition policy on both national and cross-border markets exercised by the antimonopoly authorities of Russia, Kazakhstan and Belarus as well as the Eurasian Economic Commission.

110. To ensure efficient functioning of the system, in 2012 a package of measures was undertaken to develop and adopt the necessary normative legal framework for control over compliance with the common competition rules on the cross-border markets.

111. The following documents were devised and adopted in 2012 within the frameworks of the Common Economic Space under the direct participation of the FAS Russia:

- The criteria for classifying cross-border markets;
- The procedures for interaction, including informational, between the Eurasian Economic Commission and the authorized bodies of the member-states of the Customs Union and the Common Economic Space (further on referred to as the interaction procedures);
- The list of normative legal acts of the member-states of the Customs Union and the Common Economic Space on competition policy that are subject to amendments or adoption for the purposes of harmonizing the law of each of the parties in the field of competition policy:
- The Procedures for considering petitions (materials) on violating the competition rules
- The Procedures for investigating the violations of the competition rules
- The Procedures for considering cases on violating the competition rules
- The methods for calculating and the procedures for imposing fines specified by the Agreement on the General Principles and Rules of Competition
- The methods for determining monopolistically high and low prices
- The methods for evaluating the state of competition
- The procedures for filing and considering petitions by the Parties on the facts of introducing state price regulation.

112. The Criteria for classifying cross-border markets is the key document of the above, the purpose of which apart from defining the concept of a cross-border market was to delineate the competence between the Eurasian Economic Commission and the national antimonopoly bodies of the member-states of the Common Economic Space.

113. Measures related to the institutional support for efficient cooperation between the antimonopoly authorities of the member-states of the Common Economic Space, in particular, FAS Russia, and the Eurasian Economic Commission, were adopted, the main areas of which are reflected in the cooperation procedures.

114. In the period in question the national antimonopoly bodies of the member-states of the Common Economic Space were also actively developing cooperation, including enforcement; the legal framework of such cooperation is specified directly in the Competition Agreement.

115. The forms of cooperation between the antimonopoly bodies of the three countries, determined by the Competition Agreement, are designed to ensure the most efficient suppressing of violations of the antimonopoly law on the national markets. Such forms include, in particular, instructions to carry out separate procedural actions, enforcement efforts upon a request from one of the Parties, exchanging information between the antimonopoly authorities of the three countries in investigations of specific antimonopoly cases.

3.7.3 *The Interstate Council on Antimonopoly Policy*

116. Cooperation in the field of competition within the CIS member-states developed actively in 2012; the main platform is the Interstate on Antimonopoly Policy (ICAP).

117. ICAP was formed and operates under the Treaty on Coherent Antimonopoly Policy in the new version of 25th January 2000. Its sessions take place typically twice a year, in turn in the capital cities of the CIS member-states.

118. In 2012 ICAP considered the issues of the most importance for the antimonopoly bodies of the CIS states. Such issues include the mechanisms of preventing antimonopoly violations, the practice of suppressing violations committed by the authorities, and preparing a draft of the new Model Law on competition protection within the CIS.

119. Traditionally ICAP discussed the work of the Headquarters for Joint Investigations of the Violations of the Antimonopoly Law of the CIS Member-States (further on referred to as the Headquarters).

120. In 2012 the Headquarters studied the markets of air passenger transportation, telecommunications, retail, food products, and pharmaceuticals.

121. At the sessions of the Headquarters, participants exchanged information on the problems of developing competition on the above markets and shared experiences of investigating antimonopoly violations on them and worked on common approaches to antimonopoly regulation of the relevant markets.

122. In 2012 FAS completed a Report “On the State of Competition on the Market of Selling Food Products through Retail Networks in the CIS Member-States” (the Report). It contained information on state regulation in the CIS member-states, international experience in this field, and analyzed contractual practices between the suppliers of food products and trading networks affecting the state of competition in this segment.

123. The Report was considered and approved by the Council of the Heads of the CIS Governments on 28th September 2012 in Yalta (Ukraine). The Council of the Heads of Governments recommended the regulators of the CIS states on trading activities to take into account the conclusions and proposals presented in the Report that are aimed at developing competition on the market of sales through retail trading networks.

124. In 2012 the Headquarters also stepped up the studies of pharmaceutical markets in the CIS member-states.

125. In general, at the sessions ICAP emphasized intensive work carried out by the majority of the antimonopoly bodies of the CIS states to suppress anticompetitive actions and agreements, particularly, through improving antimonopoly law and enforcement in view of the international experience.

3.7.4 *New Forms of Cooperation*

126. To intensify international cooperation between competition authorities of different countries, in 2012 upon a FAS initiative several international working groups were formed and undertook active efforts on studying development of competition on the socially important markets, which include:

- International Working Group on the issues of pricing on the markets of oil and oil and gas and the methods of their functioning (Co-Chairs – Russia and Austria) (further on referred to as the Oil Working Group)
- International Working Group on pharmaceuticals (Co-Chairs – Russia and Italy);
- International Working Group on roaming (Co-Chairs – Russia and Turkey).

127. Their objective is to devise coherent approaches to antimonopoly regulation on the relevant markets, draft recommendations on developing competition on such markets based on the experiences of different jurisdictions, devise specific measures to eliminate factors hampering competition development, and if necessary – carry out joint investigations.

128. In particular, the Oil Working Group was formed upon an initiative of FAS Russia and Austria's Federal Competition Authority in October 2011. The goals of the WG are to facilitate establishing price indicators that reflect fair prices for oil and oil products formed under market conditions; and support competitive pricing through organized forms of trading with oil and oil products.

129. The Working Group has had five meetings. They focused on the methodology of analyzing the markets of oil and oil products; accounting for the specifics of wholesale and retail sales, specifics of the markets due to their oligopolistic structure and vertically integrated chains of relations between their participants. The Group also discussed monitoring of the markets of oil and oil products. In view of the social-and-economic importance of such markets, the parties continuously monitor them directly by the workforce and means of the antimonopoly bodies as well as within the system of state and industry-specific branch statistics. The Working Group also looked at the pricing on the global markets and the influence of world prices upon the wholesale prices on the national markets of oil and oil products. At the last meeting, the Working Group summed up the results of its efforts, including creating a database (the Platform) which would become an instrument enabling competition authorities to exchange the main information related to the national markets of oil and oil products.

130. In February 2013, FAS Russia and Austria's Federal Competition Authority made a presentation about the activities of the International Oil Working Group for the OECD Competition Committee. Including the issues on the agenda of such influential international organization as OECD emphasizes the significance and action-orientation of the efforts undertaken under the umbrella of the International Working Group.

3.7.5 *BRICS*

131. FAS Russia is actively participating in the process of developing cooperation between the competition Authorities of Brazil, China, India and South Africa. The parties exchange information on the problems of developing competition on their markets and shared experiences of investigating

antimonopoly violations. Besides, they are in the process of the preparation of next BRICS Competition Conference to be held in New Delhi in November 2013.

3.8 Project Activities

132. Since the issues of exchanging information between jurisdictions, including confidential information, on competition enforcement affect considerably possibilities of competition authorities to efficiently suppress violations of competition law, in 2012 FAS successfully implemented a Project on a “Survey on Information Exchange on Competition in APEC – Stage I”. The Project researched possibilities for exchanging such information between competition authorities of the APEC economies, classified APEC economies with regard to their potential readiness and drafted recommendations on developing possibilities for exchanging certain types of information, particularly, on the cases on violating the antimonopoly law.

3.9 System-Wide Measures and Competition Advocacy

3.9.1 Sectoral measures

133. FAS devised the Recommendations for all distributors and manufacturers of car products in the Russian Federation (*and not only those dominating the market*), that were placed on the FAS official website and were addressed to the market participants.

134. For instance, distributors and car manufacturers were advised to:

- Set the validity period for dealer agreement at no shorter than five years or for an indefinite period for the official dealers that made significant investments in developing dealer business in spite of the long period for return on investment
- Give detailed written explanations of termination of agreements by an initiating party if a dealer agreement is terminated
- Do not exercise actions that lead to fixing resale prices for car products for the official dealer, except cases of fixing the maximum resale price
- Do not create discriminatory conditions for particular dealers within the same dealer network
- Do not allow unreasonable refusals to independent auto services to supply original spare parts, accessories and expendables, as well as the right of access to informational data bases (electronic catalogues of spare parts, expendable materials and accessories), etc.

135. The Recommendations have had a positive effect upon the situation in sales and after-sale car services.

136. In 2012 FAS put forward proposals aimed at establishing law and order, as well as adjusting activities of foreign companies and economic entities controlled by them in line with the law of the Russian Federation, in the field of harvesting (catching) water biological resources and proposals for improving the law in this field. The proposals were approved by the Government of the Russian Federation.

3.9.2 *Annual Reports to the Government of the Russian Federation*

137. Under Clause 10 Part 2 Article 23 of the Federal Law “On Protection of Competition”, FAS annually submits a Report on the state of competition in the Russian Federation to the Government and publishes it on its official web-site. Since 2007 FAS has prepared 6 Reports. The Head of FAS Igor Artemiev presents a Report to the Government

138. A Report includes the following mandatory elements:

- Analysis of competitive environment and competitive policy in the Russian Federation
- Analysis of the state of competition in particular sectors of the economy
- Analysis of the legal framework for protecting competition in the Russian Federation
- Proposals towards developing competition on the goods markets of the Russian Federation.

139. In September 2012 at the Meeting of the Government of the Russian Federation the Head of FAS Igor Artemiev presented the 2011 Report. In particular, the Report stated that the number of violations, their severity and recurrence showed that even considerable toughening of the sanctions for violating the antimonopoly law did not improve the situation dramatically. A passive position of the key ministers in the Government of the Russian Federation with regard to devising packages of measures for developing competition in subordinate sectors of the national economy also hampered competition.

140. The Reports summed up the main results of the national competition policy in Russia, analysed the most important changes in the law, outlined the findings of the state of competition in certain sectors of the economy and particular markets, and discussed the main issues of their performance.

141. The report also contained statistical data characterizing enforcement practice of the antimonopoly bodies. Considerable attention was paid to the issues of suppressing cartel agreements on the socially important markets and cooperation with the law enforcement bodies.

3.9.3 *Public Consultations*

142. One of the forms of public consultations is direct interaction with representatives of the largest organizations speaking for the interests of the business-community under the framework of specially organized working groups. To formalize public consultations, in the near future public consultations will be also offered through a special web-site. The Regulations on public consultations are being drafted by the Chamber of Commerce and Industry of the Russian Federation jointly with the Russian Union of Industrialists and Entrepreneurs and non-government organizations – “OPORA Russia” and “Business Russia”.

143. An example of using a mechanism of public consultations is work of Public Advisory and Expert Councils formed at the authorized bodies in the field of competition policy and antimonopoly regulation that apart from representatives of the authorities comprise market participants and representatives of non-governmental associations.

144. For the purposes of public discussions of the issues of antimonopoly regulation in various fields and objectivity and transparency of decision-making, and to engage professional market participants in resolving the problems of developing competition on the markets, FAS is actively developing a system of Public Advisory and Expert Councils (Competition Councils). Such Councils at FAS Russia and its

regional bodies comprise over 730 representatives of the Public Chamber of the Russian Federation, regional public chambers, “OPORA Russia”, “Business Russia”, the Chamber of Commerce and Industry of the Russian Federation, the Russian Union of Industrialists and Entrepreneurs, other organizations and associations.

145. In order to invite professional market participants to the solving of issues of the development of competition in the commodity markets the FAS Russia has established a number of Expert Councils. In 2012 the number of FAS Expert Councils increased to 29; FAS formed the Expert Council for Developing Competition in Manufacturing and Circulation of Counterfeit-Proof Printed Products, the Expert Council on Chemical Industry; and the Expert Council for Developing Competition in Circulation of Medical Products. In 2012 the Expert Councils held over 250 meetings attended by 994 Council members.

3.9.4 *“Promoting Competition” Non-Commercial Partnership*

146. In 2012 FAS was advancing cooperation with “Promoting Competition” Non-Commercial Partnership – an organization formed upon a FAS initiative. The purpose of the Partnership is to pursue an active dialogue between FAS and the legal community on improving competition law and establishing efficient enforcement practice.

147. The Partnership was formed in 2007. Currently the Partnership has over 50 members – lawyers and economists specializing in the antimonopoly law and policy, and representing large international and Russian law firms as well as business companies. A number of Working Groups on basic directions of antimonopoly policy are created in the frames of the Partnership.

148. In 2009 a similar Partnership was established in the frames of the CIS. At present representatives of six CIS member-states are the members of the Partnership. These are Armenia, Belorussia, Kazakhstan, Moldova, Ukraine and the Russian Federation.

3.9.5 *Annual Conference on “Antimonopoly Regulation in Russia”*

149. In October 2012 the IV Annual Conference on “Antimonopoly Regulation in Russia” was organized in Moscow by “Promoting Competition” Non-Commercial Partnership and the “Vedomosti” newspaper with support by FAS Russia. Over 400 attendees were involved in the work of the Conference.

150. The I Conference on “Antimonopoly Regulation in Russia” took place in October 2009 bringing together a broad spectrum of representatives of all branches of power, academia and business circles and the legal community.

151. Since 2009 the Conference on “Antimonopoly Regulation in Russia” has been a leading informational platform where the antimonopoly authority sums up the outcome of its annual work and prospective areas of competition policy are discussed. A considerable interest of the participants to the Conference agenda ensured its annual status.

152. Each Conference focused on specific issues to which the business community showed the most interest, so the Conference has gained popularity, each year attracting increasingly more participants.

153. In 2012 the Conference discussed the current situation with competition policy, particularly in view of establishing a system of antimonopoly regulation within the Common Economic Space and in accordance with the Road Map for “Developing Competition and Improving the Antimonopoly Policy” and working out the Federal Contract System.

3.9.6 *An International Event – “Russian Competition Day”*

154. The third International Russian Competition Day took place in September 2012 (further on referred to as the Competition Day).

155. The purpose of Competition Days is to advocate competition both at the national level in Russia and in the provinces, attracting attention to the issues of competition development, devising approaches to resolving them in view of the best world practices and intensifying integration of the Russian Federation in the global economic space.

156. The event in Kazan (Republic of Tatarstan) was attended by representatives of competition authorities from the CIS member-states and from other countries across the world, several international organizations and integration associations (OECD, BRICS, the European Commission, the Eurasian Economic Commission, and the CIS Executive Committee) and the leadership of the Republic of Tatarstan.

157. In 2013 the Competition Day will be in Irkutsk, a city in Eastern Siberia located on the banks of the Angara River near one of the most magnificent lakes in the world and the largest fresh water lake - Baikal.

3.9.7 *FAS Resource-and-Training Centre in Kazan*

158. A landmark event in 2012 was opening FAS Resource-and-Training Centre in Kazan, the capital city of the Republic of Tatarstan. It is expected that apart from training sessions, the Centre will host international conferences, workshops and meetings aimed at approximating the antimonopoly law of Russia and the CIS states as well as foreign countries to achieve better practical results in conducting competition policy, at both national and international levels.

3.9.8 *“Russian Competition Law and Economics” Electronic Research-to-Practice Journal*³

159. “Russian Competition Law and Economics” Electronic Research-to-Practice Journal is published at the electronic resources of FAS Russia.

160. The main objective of the electronic publication is to facilitate development of competition in Russia as well as across the entire space of the Customs Union of Russia, Belarus and Kazakhstan. From the journal, the readers learn first-hand news about the antimonopoly law and enforcement practice, about the most complex and interesting cases heard at Courts.

161. The target audience of the journal includes officers of the antimonopoly bodies, representatives of the business-community, experts, consultants and members of the general public.

³ <http://fas.gov.ru/eljournal/>

3.9.9 *A College Textbook on “Competition Law in Russia”*⁴

162. “Competition Law in Russia” textbook for colleges was published in 2012. It is devoted to a rapidly developing area of legal thought in the past 20 years. The book written by a team of authors—practitioners and theoreticians of antimonopoly regulation – describes in detail the genesis of the framework of the legal norms, aimed at competition protection, and investigates the origin and evolution of the antimonopoly law in Russia. The textbook is designed and completed by the authors as an “open text”: rather than giving instructions students are asked to complete research tasks, requiring and encouraging them to expand their knowledge of this new subject and academic area of Russian law.

163. The textbook can be useful for undergraduate and post-graduate students and professors of economic and law colleges and faculties, entrepreneurs, companies’ top executives.

4. Resources of the Competition Authorities

4.1 *General Resources (the Current Numbers and Changes within the Past Year)*

4.1.1 *Annual Budget (in the Local Currency and in the US Dollars)*

164. Expenses for maintaining the Central Office of the Federal Antimonopoly Service and its regional Offices are financed from the federal budget.

165. In 2012, FAS budget was approximately 2,439,819,300 Rubles or US\$ 78,400,363. In comparison with 2011 it increased by around 7.16 % in Rubles or 3.31% in US dollars.

4.1.2 *The Number of Employees (Man –Years)*

166. As of 31.12.2012 the FAS personnel included:

- Economists
 - 692 (the figure is tentative since some FAS officers exercise the functions of both lawyers and economists).
 - 51 employees have a doctorate degree in economics.
- Lawyers
 - 736 (the figure is tentative since some FAS officers exercise the functions of both lawyers and economists).
 - 24 employees have a doctorate degree in economics
- Other Professions
 - 397 (persons with technical and other education as well as incomplete college education).

⁴ Igor Artemiev, Alexei Sushkevich, Competition Law in Russia, College Textbook // Moscow: National Research University - High School of Economics, 2012 — ISBN: 978-5-7598-0940-1 — 391 p. — 70x100/16

- Supporting Personnel
 - 1189
- Total employees
 - 3014

167. The structure of FAS comprises: the Central Office and 83 regional Offices operating in 83 constituent territories of the Russian Federation.

- Employed at the Central FAS Office - 578.
- The number of employees at the regional bodies - 2 436.

4.2 Staff (Man-Years) Involved in:

- Enforcement on Anticompetitive Practices (Excluding Unfair or Misleading Practices Covered by the Norms on Consumer Protection where Available)
- Merger Consideration and Enforcement
- Advocacy.

168. The total number of members of staff involved in enforcements is 2338. FAS does not gather statistical data with breakdown by different types of practices and enforcement areas.

169. The organizational structure of the Central FAS Office is built upon an industry principle, so it is not easy to specify the exact number of officers involved in enforcement in a particular area of antimonopoly regulation. For instance, FAS has the Department for Control over Electric Power Industry, the Department for Control over Fuel-and Energy Complex, the Department for Control over Social Sphere and Trade, and others.

170. At the same time FAS has a special Anti-Cartel Department that exposes cartels of special and precedent importance at the federal and interregional levels. In 2012 the Department had 21 staff members. The Department is also responsible for cooperation with law enforcement bodies on the issues of gathering evidence in the course of cartel investigations.

171. Other structural units of the Central Office and regional FAS bodies deal with suppressing all types of violations of the antimonopoly law, including cartels, and exercise control over economic concentration. Thus, the number of staff members investigating cartels is considerably higher than the staff of the Anti-Cartel Department.

4.3 The Information Period

172. The above information covers the period from 1st January 2012 to 31st December 2012.

5. References to New Reports and Works on Competition Policy

Avdasheva S.B., Shastitko A.E. Market analysis in cases of violation of the antimonopoly legislation: attempt of an empirical assessment// XII International scientific conference on problems of economy and society development. In four books. Book 4. / Executive editor: Yasin E.G. Book 4. M: NRU HSE, 2012. P. 187-197.

Avdasheva S.B., Novikov V.V. Fox and crane: paradoxes of discrimination // Competition and law. 2012. No. 1. p. 22-27.

Avdasheva S. B., Shastitko A. E. International anti-trust: requirements, restrictions and lessons for the Customs Union // Economy Questions. 2012. No. 9. p. 110-125.

Avdasheva S.B., Kalinin M.M. Instructions to merger participants // Economic policy. 2012. No. 1. p. 141-158.

Avdasheva S.B. Economic analysis for application of the antimonopoly legislation: what, where, when? // Competition law. 2012. No. 1. p. 5-11.

Artemyev I.Y., Panova I.V. Issues of administrative liability application for violation of the antimonopoly legislation//Bulletin of the Supreme Arbitration Court of the Russian Federation. - M: Law, 2012, No. 4 (233). – p. 110-121.

Artemyev I.Y., Sushkevich A.G. «Russian competition law»: textbook for institutions of higher education / M: NRU HSE, 2012 — ISBN: 978-5-7598-0940-1 — 391 p. — 70x100/16.

Gvozdilina O.Y. Forgetfulness of the monopolist shouldn't be consumer problem // Law. 2012. No. 10.

Dzagurova N.B., Bidding ambiguity between mistakes of I and II sorts in regulation of vertical restricted agreements. XII International scientific conference on problems of economy and society development. In four books. Book 4. Moscow: NRU HSE, 2012. p. 228-236.

Dyatlov S. Innovative hyper competition as factor of economic system development // Economist. - 2012 . - № 5. – p. 69-76.

Caribov A. Post-industrial prospects of competition and monopoly development // Power. - 2012 . - № 8. – p. 76-79.

Carlina T. Organization structure and competitive advantages // Problems of management theory and practice. - 2012 . - № 6. - Page 76-84.

Kirillov V.N. Assessment of competitive advantages of intangible assets in innovative activity // High technologies. - 2012 . – № 11. – p. 65-70.

Knyazev I.V. Frontier regional and branch interaction in economic relations system of countries of a common economic space / 2012, № 19.

Kryuchkova P.V., Avdasheva S.B. Public and private enforcement of the legislation at risk of errors of the I sort: Russian choice // New economic association magazine. 2012. № 3 (15). p. 114-140.

Pisenko K.A. Administrative Procedures for Non-Jurisdictional Publicly-Authoritative Activity of the Antimonopoly Body (Text): Monograph / Kirill Andreevich Pisenko. - M.: PFUR, 2012. - 150 p. .

Pisenko K.A. Competition Law and Intellectual Property LAP LAMBERT Academic Publishing GmbH & Co. KG Heinrich-Böcking-Str. 6-8, 66121 Saarbrücken, Germany (Text): Monograph / Kirill Andreevich Pisenko. 2012. 141 p.

Pusyrevsky S. Amendments in Regulation of Administrative Responsibility for Violation of Antimonopoly Legislation in connection with Adoption of the "Third Antimonopoly Package" // Economy and law. - M., 2012, № 5. – p. 24-47

Totiev K.Y., Systematization of the Rules on Protection of Competition: not summarized Results // Competition Law, 2012. № 1. p. 18—22

Totiev K.Y., Transaction, Violating the Antimonopoly Legislation: Insignificance or Avoidability? // Laws of Russia: Experience, Analysis, Practice, 2012. № 5. p. 68—73

Totiev K.Y., Principles of Ex post and Ex ante in Enforcement of the Legislation on Economic Activity // XIII International Scientific Conference on Problems of Development of Economy and Society. 4 books. Book 1. Moscow: Publishing House of the NRU HSE, 2012. p. 380-387

Totiev K.Y., Legislation on Protection of Competition and State Economic Policy: the Interference or Neutrality? // XII International Scientific Conference on Problems of Development of Economy and Society. 4 books. Book 4. 2012. p. 180-186. Moscow: Publishing House of the NRU HSE, 2012

Shastitko A.E., Consequences of Weak Competition: Quantitative Evaluation and Conclusions for Policy / A.E. Shastitko. // Magazine «Economic Policy» - 2012. - № 6

Yukhney B.M. Regularities of the Reformation of Natural Monopoly Sectors of the Economy (Civil-Legal Aspect) // Russian Justice. - M.: RAJ, 2012, № 3 (71). - C. 33-38.

Report of the FAS Russia on competition in the Russian Federation 2012.

E-Magazine «Russian Competition Law and Economics» // <http://fas.gov.ru/eljournal/>