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COMPETITION AND POVERTY REDUCTION

Contribution from the Russian Federation

-- Session I --

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COMPETITION AND POVERTY REDUCTION

-- Russian Federation --

Introduction

1. The official statistics data evidence that the poverty is being gradually reduced in Russia. According to the preliminary results of the research, carried out by the Russian Federal State Statistics Service, the poverty level in Russia in 2011 constituted 12, 8% of the total number of population. In 2010 this figure was 12, 6%. However, in 2011 the level of Russian citizens with the lowest income was 5, 2%, in comparison to 6% in 1992. Preliminary statistics data shows that the average salary in January 2012 was 23 500 Rubles which is 13, 5% higher than the salary in January 2011.

2. The statistics demonstrates that the poor are mainly people of working age (in 2011 this category amounted to 63, 5% to the total number of poor people), which is 60 years for men and 55 years for women (while the average life expectancy at birth in 2011 was 64.04 years for men and 75.61 years for women)¹. The figure 63, 5% shows that this percentage of population could contribute to developing business and economics in Russia. Should there be working places, people could work and earn shifting from the lower social layer to the higher one.

3. In the Russian legislation there is no official definition of “poverty”, the notion close to it is an “economically disadvantaged person (people)”, whose average income is less than a minimum subsistence line². The law defines “minimum subsistence line” as a monetary measure of the consumer (subsistence) basket (hereinafter “CB”), as well as mandatory payments and contributions. The volume and composition of the CB is set forth by respective normative legal acts that are reviewed on a periodic basis (every 5 years). The CB foresees a certain amount of goods and services that are necessary for a person with a relatively average income. Should the income be less than the CB, the person is considered as poor and becomes entitled to the help from the state³.

¹ In the year 2000 these figures were 59.03 and 72.26 respectively, and in the year 2005 58.92 years and 72.47 years respectively.

² The official data state that in 2011 it was 6369, in 2010, 2009 and 2008 – 5688, 5153, 4593 respectively.

³ The CB, *inter alia*, lists certain categories of goods vitally important for a person. Thus, a level of the poor could be measured on the basis whether a person is able to provide himself or herself at least with this minimum list of products (though this poverty-measurement is rather comparative). The aforementioned categories contain, *inter alia*, goods that are enlisted in the Governmental Regulation N 530 of July 5, 2010.

1. FAS Russia and poverty reduction

4. A number of reforms, aiming at improving social, economic and political situation, with particular emphasis on the socially beneficial effect thereof, have recently been carried out in Russia. The poverty reduction issue has been addressed there within. Starting from the year 2000 up to the present moment the problem of fighting poverty is one of the key issues addressed by the President of the Russian Federation to the Federal Assembly⁴. The Federal Assembly is a legislative body, which is to take the poverty-related issues into consideration every time when it initiates or drafts a law. The poverty reduction policy is, therefore, implemented nationwide and on all levels of public authorities. This top-priority objective is directly or indirectly set before them. Therefore, the whole state authority system, including the FAS Russia, as a federal executive authority, conducts their activities within the avenue of social welfare.

5. The FAS Russia, as an authority responsible for competition policy and law enforcement, is authorized to exercise control and monitor such vitally important spheres as agriculture, trading activity, social sphere, public procurement placement, fuel sector, transport and communication, power and energy, unfair competition, financial markets, and etc. Moreover, the FAS Russia is empowered to fight against cartels, as one of the most socially and economically damaging evil, and has successfully conducted a certain number of investigations, which influenced the markets to a certain degree.

6. By means of exercising control, the FAS Russia is involved into the process of creating a more competitive, thus, healthy, social and economic environment, with indirect impact on the poverty reduction.

7. This impact is more evident on the market of food products. As one of the state authorities in charge, the FAS Russia monitors product markets and respective price situations, from the healthy competition environment point of view, for socially important goods⁵ and other price situation on the consumer market of food products, *inter alia*, milk and dairy products market. Along with other state authorities the FAS Russia takes timely necessary measures to keep under control sharp prices fluctuations, *inter alia*, for raw milk and dairy products, in the agricultural sector and takes additional measures to stabilize the consumer prices. The results of monitoring are reported to the Government on a regular basis⁶.

8. Making the food products available for a larger number for people, and reducing the ratio of the amount of money spent on them to the total amount of income left for other goods and services might be illustrative of the poverty level reduction.

2. Cases considered by the FAS Russia

9. As it was mentioned above, trade activity is another sphere of the FAS Russia controlling expertise.

10. In 2010 a special regulation of trade activity was implemented – the Federal Law of December 28, 2009 № 381- FZ «On the basic principles of state regulation of trading activities in the Russian Federation» was adopted.

⁴ The texts are available at the official web-site www.kremlin.ru/transcripts

⁵ They are enlisted in the Governmental Regulation N 530 of July 5, 2010

⁶ Usually, on a monthly or quarterly basis.

11. Under this Law, it is prohibited to include into the price of contracts on supply of goods to a trade net the following: any type of remuneration for execution by the trade network of any other condition apart from the admissible ones; conditions on the supplier performance of actions or services to promote goods (advertising services, marketing and other services) and coercion of the supplier to conclude such contracts so as to conclude sale-and-delivery contracts, responsibility to place (submit) information on conditions for eligibility of a counterparty to conclude a sale-and-delivery contract and terms of such contracts.

12. The Law also contains antimonopoly rules and list of prohibited actions, 25% - rule (restrictions on acquisition and lease of trading sales premises), and sets forth antimonopoly requirements to public authorities.

13. The above mentioned might have direct or indirect impact on reduction of poverty, since trade activity of the socially important goods, enlisted in the aforementioned Governmental Regulation, falls under the regulation of the FAS Russia.

14. Thus, within its powers the FAS Russia conducted investigations concerning, *inter alia*, very important fish and dairy products markets.

- **Fish cartel case**

The FAS Russia, as it was mentioned *supra*, is empowered to conduct anti-cartel investigations. Currently, it considers three different cartel cases concerning fish markets. The alleged cartels have lead to establishing excessive prices for certain types of fish (i.e. Pollock, salmon, pangasius)⁷. The frozen whole fish is included into the list of socially important food products. Therefore, fighting cartels on these markets and making the price come down will make fish available to a larger number of people, including the poor.

- **Juice and dairy market**

Supervision of a transaction on the market of such socially important food product as milk contributed to competition development on the market, and beneficial price situation for consumers.

The FAS Russia approved the submission of PepsiCo on acquisition of 100% of shares of Wimm-Bill-Dann Foods OJSC, since the transaction in question was of significant importance for foreign investments into development of production of juice and dairy products which is socially important. The transaction was approved, however, subject to certain structural and behavioral remedies.

15. Controlling the fuel sector is within the scope of responsibility of the FAS Russia. The price for certain goods and services is formed with the fuel price taken into account. The FAS Russia monitors the oil and petroleum products prices, and takes necessary measures, should the situation require it. During the period from 2008 to 2011 the FAS Russia initiated three series of cases against the biggest oil companies (Lukoil OJSC, Gazprom Neft OJSC, TNK –BP Holding OJSC and Rosneft OJSC).

16. The violations were the following: fixation of monopolistically high prices for oil products, creation of discriminatory conditions for Russian wholesale oil market, fixation of groundlessly different prices for oil products, exemption of goods out of circulation.

⁷ More detailed information is available at the official web-site of the FAS Russia www.fas.gov.ru

17. The fact of collective dominance was found during the case consideration. The Russian territory was recognized as geographic market boundaries. The decisions of the FAS Russia were upheld in all the court instances, *inter alia* in the Supreme Commercial Court of Russia.
18. Public procurement placement is another sphere of relations which is under control of the FAS Russia. Public procurement allows procuring entities to procure services and goods of the best quality at the lowest price. This mechanism is an effective measure to support the poor who enjoy the state help.
19. One of the great achievements in this field is introduction of electronic auctions. For this purpose 5 sites (electronic platforms) were created. It also presumes free participation for all the participants except for the winner; information is placed uniformly, the search system is universal. Electronic platforms bear administrative liability. The economy of budget funds for the period 2006-2011 amounted to more than 1 trln. 448 bln. rubles. (more than 36 bln. Euro).
20. Another sphere being socially and economically important is natural monopolies:
21. Cargo Railway transport is important in particular. On 5th October 2012 “Russian Railways” OJSC issued No. 16 676 telegram that restricted the volume of shipments and approvals of consignors’ applications for freightage. The telegram abolished continuous planning of freightage provided for Article 11 of the Railway Transport Statues of the Russian Federation, and determined the procedures for monthly transportation plans. Such actions of “Russian Railways” OJSC prevented access of consignors, including fuel-and-energy companies, which make shipments upon the results of “exchange trading” rather than according to monthly planning, to the services of natural monopoly – freightage by railway transport. The company also did not take into account the interests of small and medium consignors (shipping agents, plants, factories producing finished products rather than raw materials, etc.) that make the so-called “just-in-time” shipments and typically have a shipping schedule for no more than two weeks ahead – solely depending on the received payments. “Russian Railways” OJSC executed the FAS Russia warning and on 14th January 2012 issued No. 379 telegram to abolish No. 16 676 telegram of 5th October 2012.
22. Undeniably, developed communications is one of the crucially important factors for effective business activity, from the socially and economic points of view, in such a geographically great country as Russia.
23. In 2010, the FAS Russia along with other antimonopoly bodies of the CIS members-states started investigations on the markets of roaming services. The investigations were completed in October 2010; on the basis of the findings the FAS Russia found that “the big three” of mobile operators MTS OJSC, VypelCom OJSC, and MegaFon OJSC abused their market dominance.
24. As for the cases investigated by the FAS Russia, Russian operators reduced their rates in December 2010 by two - four times. In 2012 prices continued going down but without involvement of the antimonopoly bodies.
25. The problems of telecommunications with use of roaming in the CIS and the countries of Europe are regulated to a greater degree. For other regions, however, additional coordination of the efforts of the antimonopoly bodies is required. Therefore, in June 2012 the FAS Russia and the Turkish Competition Authority discussed the possibility of forming the International Working Group for Research of Competition Issues in the Market of International Telecommunications (Roaming), the first session of which was held on September 12, 2012, within the framework of the Russian Competition Day. The Working Group will continue its operations in 2013.

3. Competition Advocacy and Poverty

26. Apart from fighting poverty by regulating the objects, the FAS Russia is putting much effort into developing of entrepreneurship on different social levels through, *inter alia*, competition advocacy, which is gained through the following.

27. Transparency and openness of the FAS Russia activity are guaranteed.⁸ There are Public Consultations Council and Experts Councils for key markets functioning under the FAS Russia. The FAS Russia is presented in social media and successfully leads fruitful dialogues with individuals.

4. Antimonopoly Legislation development

28. The FAS Russia develops and improves the legislation: the third antimonopoly package of amendments was introduced in January 2012⁹.

29. Moreover there are two general competition documents of significant importance: the Program on Competition Development in Russia, which was approved by the Ordinance of the Government of the Russian Federation № 691-r of May 19, 2009, and the Road map “Competition Development and Improvement of Antimonopoly Policy”, foreseeing, *inter alia*, Elaboration of Proposals Concerning Actions, Aimed at Competition Development, which was approved by the Ordinance of the Government of the Russian Federation № 2579-r of December 2012.

30. The Program sets the priorities and principal avenues of activity of the competition policy applied in Russia up to the year 2015. The Plan on measures to realize the Program on Competition Development in Russian for years 2009-2015, *inter alia*, includes: general measures for reaction of administrative barriers, measures on antimonopoly regulation, measures for development of competition policy in regions, measures for development of competition mechanisms or tariff and non-tariff regulation, measures on development of small and medium enterprises.

⁸ Pursuant the Federal Law on Protection of Competition the FAS Russia:

- submits to the Government of the Russian Federation an annual report on the competition situation in Russia and places it on the official web-site www.fas.gov.ru;
- places Decisions and Instructions on cases on the antimonopoly legislation violation and Decisions on submissions.

⁹ **Legislation development**

2006 – 2010 – new stage of the antimonopoly legislation development

2006 – the «*first antimonopoly package*»

2009 – the «*second antimonopoly package*»

2011 – the «*third antimonopoly package*»

Requirements for anticompetitive agreements and concerted practices (“cp”) were set forth, criteria of the monopolistically high prices were specified. The Russian Government determines rules for non-discriminatory access to the infrastructural objects of trade markets of monopolies. The cartel notion was introduced for the first time. CPs were decriminalized. Antimonopoly bodies are entitled to send warnings to undertakings. Mitigating and aggravating circumstances were introduced into the CoAV.

31. As to the Road Map, the competition development presumes not only the whole system activities, but rather sectoral regulation, which also requires dynamic step-by-step approach and regular update of sectors requiring both competition development and key sectoral actions. The Road Map defines the top-priority actions aimed at competition development in certain sectoral markets", which implementation will allow to improve the quality of life of the Russian citizens within a short period of time. The elaborated measures encompass the pharmaceuticals market, market of medical services, aviation carriage, communication services, preschool education services, petroleum products. The Road Map sets forth a principle of stirring to activity of competition development, which provides for drawing a list of top-priority sectors and systematic activities on a regular basis.

5. “Pro-poor” interventions versus Competition

32. The Russian competition authority, as an authority responsible for competition policy and law enforcement, is authorized to exercise control and monitor such vitally important spheres as agriculture, trading activity, social sphere, public procurement placement, fuel sector, transport and communication, power and energy, unfair competition, financial markets, and etc.

33. FAS Russia monitors prices for some commodities of social importance. The results of this monitoring can be the subject to antitrust investigation and detection of violation of the Law on Protection of Competition. In particular, cases on abuse of dominant position by means of excessive pricing, discriminatory pricing, and also cases on uncompetitive agreements on price fixing were detected. The violations of the law “On Trade” were also detected.

34. Sometimes cases can be opened against food products producers, more often against resellers, sometimes against trade associations. More and more frequent the activity of large trade networks on retail markets becomes the subject of the competition authorities’ attention in a many jurisdictions.

35. The actions of authorities should be clear, effective and adequate to changing situation. This is of high importance in unstable, sometimes crisis, economic conditions. One of such actions can be a regulation of prices. At the same time for our understanding the following mandatory conditions should be met:

- price regulation may be implemented for a limited period of time;
- during this limited period of time the necessary measures aimed at promotion of competition in the relevant market should be prepared.

36. In accordance with the law “On Trade” adopted in 2009, if during 30 calendar days a growth of retail prices for socially important commodities exceeds 30 per cents per month, the Russian Government has a right to establish a regulated prices for the period that doesn’t exceed 90 calendar days. There has been no case on introducing of a price regulation in accordance with the law “On trade” so far.

37. It should be highlighted that it is very important to develop market infrastructure.

38. In addition to exercising control, the FAS Russia, in frames of state policy, is involved into the process of creating a more competitive environment. As a result, a more healthy, social and economic environment with an indirect impact on the poverty reduction is created.

39. One example. In accordance with the Russian Government’s decision, which is drafted by the Ministry of Agriculture and the FAS Russia, grain interventions to the market are performed. This take place in case an extraordinarily high grain demand and/or low grain production. The grain is at the

beginning of almost all food production chains. So, this measure allows making grain and food prices stable and a situation in the domestic market sustainable.

40. The very important thing is that the grains interventions are carried via exchange. A seller of grain is the state owned company which operates state grain reserve. Buyers are food producers. From the end of 2012 to the beginning of 2013 on such a manner it has been sold around 2 mln. tons of grain at an exchange.

41. Another example. The FAS Russia initiated introducing of a united system of public procurement for federal, regional and municipal needs in the form of competitive electronic auctions. So, in 2012 the total sum of contracts for small and medium enterprises was more than 5 billion euros. It allows supporting small and medium enterprises and also improving a social and economic situation in the country.

42. So, it should be highlighted once more that it is very important to develop market infrastructure.

6. Conclusion remarks

43. Though the FAS Russia is not directly involved into poverty reduction process, *i.e.* it protects competition, and the powers it is vested with do not explicitly stipulate fighting against poverty or carrying out other poverty-related issues; the activity of the FAS Russia has certain impact on creating better social and economic environment for the consumers, and the poor are among them, and for the economic entities, which through competition might provide the former with better goods at the lowest price, and not abuse their market power and set excessive prices for goods and services necessary for people with relatively small income.

44. Therefore, the FAS Russia activity is aimed at developing competition, which contributes to the existence of more market players, *i.e.*, including, more working places for people. Competition is a fight for the consumer who should have a choice, and can make it within the price range from the at the lowest price ones to the highest, but always of a decent quality. The principle of fair price shall be fair for all social levels.

45. The FAS Russia is still under the process of launching and elaborating the statistics on the effects of its actions for the population and the economic situation. Having launched, the aforementioned data accumulating and processing, it will be more evident what impact competition has on the poverty reduction.