

**Law of the RSFSR No. 948-1 ON
COMPETITION AND LIMITATION OF
MONOPOLISTIC ACTIVITY IN
COMMODITIES MARKETS**

(as amended by Federal Laws of June 24, 1992 № 3119-1, July 15, 1992 № 3310-1, May 25, 1995 № 83-FZ, May 06, 1998 № 70-FZ, January 02, 2000 № 3FZ, December 30, 2001 № 196-FZ, March 21, 2002 № 31-FZ, October 09, 2002, № 122-FZ, March 07, 2005 № 13-FZ)

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Section I

GENERAL PROVISIONS

Article 1. Purposes of the present Law

1. The Law shall determine the organizational and legal foundations for the prevention, and termination of:

monopolistic activity and unfair competition on commodity markets in the Russian Federation;
restraint of competition by federal executive bodies, executive bodies of the subjects of the Russian Federation, local administrations and other bodies or organizations entrusted with the functions or rights of the above-mentioned administrative bodies.

2. The present law aims at providing a unified economic environment, free movement of commodities, of competition support, freedom of economic activities on the territory of the Russian Federation and creation of conditions for the effective functioning of commodity markets.

Article 1.1. Antimonopoly Legislation and other normative legal acts on competition and restraint of monopolistic activity on commodity markets

1. The antimonopoly legislation is based on the Constitution of the Russian Federation, and includes the present Law and federal laws regulating relations laid down in Art.2 of the present law.

2. Relations laid down in Art. 2 of the present law can also be regulated by edicts of the President of the Russian Federation which shall not contradict the present law and federal laws.

3. On the basis and in the application of the present law, federal laws, edicts of the President of the Russian Federation, the Government of the Russian Federation is empowered to adopt decrees, regulating relations laid down in Art. 2 of the present law.

4. In the case of a contradiction of an edict of the President of the Russian Federation or of a decree of the Russian Federation Government to the present law or a federal law, the present law or the relevant federal law shall be applied.

Article 2. Sphere of application of the present Law

1. The present Law shall have effect on the entire territory of the Russian Federation. The present Law shall extend to relations affecting competition in commodity markets in the Russian Federation involving Russian and foreign legal persons, federal executive bodies, executive bodies of the subjects of the Russian Federation, local administrations, other bodies or organizations entrusted with the functions or rights of the above-mentioned administrative bodies, as well as natural persons including individual entrepreneurs. The present Law shall also apply in those instances in which the activities pursued and agreements entered into by said persons beyond the boundaries of the Russian Federation lead, or may lead, to a restraint of competition or have other negative effects on markets in the Russian Federation.

2. The present Law shall not extend to relations pertaining to exclusive rights, with the exception of agreements connected to their use and aiming to restrain competition or to acquire, use and violate the exclusive rights to intellectual property that may lead to unfair competition

3. Relations connected with monopolistic activity and unfair competition in the markets for financial services, with the exception of cases where relations developing in such markets affect competition in commodity markets, are regulated by federal laws.

Article 3. Deleted

Article 4. Definition of Basic Notions

The following notions shall be used in the present Law:

commodities: products resulting from activity (including work and services) intended for sale or exchange or other introduction into circulation;

substitutes: a group of commodities which may be compared with one another in terms of their function, purpose, applications, quality and technical characteristics, price and other parameters, in such a fashion that the purchaser actually substitutes them or is prepared to substitute one with another in the process of consumption (including use in production);

commodities market: a sphere of circulation of commodities having no substitutes, or of substitutes, on the territory of the Russian Federation or a part thereof, determined on the basis of the opportunity of the buyer to acquire a particular commodity on a given territory and the absence of such opportunity outside its boundaries;

economic entities: Russian and Foreign commercial organizations, non-commercial organisations, with the exception of those not engaging in entrepreneurial activity, including agricultural consumer cooperatives, as well as individual entrepreneurs;

competition: Rivalry among economic entities whereby their autonomous actions effectively limit the opportunity of any one of them to influence unilaterally the general conditions of the circulation of commodities on the relevant commodity market;

unfair competition: any actions by economic entities designed to gain advantages in the course of entrepreneurial activity which contravene the relevant provision of current legislation, business usages, requirements of fairness, reasonableness and equity, which may cause, or have already caused, damage losses to other economic entities - competitors, or may damage their business reputation;

dominant position: the exclusive position of an economic entity, or several economic entities, in a market for a commodity having no substitute, or for substitutes (hereinafter, «particular commodity»), affording it (them) the possibility of exerting a decisive influence on the general conditions of circulation of the commodity in a given commodity market or of making access to the market difficult for other economic entities. The position of an economic entity shall be considered dominant if its share in the market of a particular commodity constitutes 65 percent and more of the total, except for instances in which the economic entity can prove that, despite exceeding the said proportion, its position in the market is not dominant. The position of an economic entity shall also be considered dominant, even though its share in the market of a particular commodity is less than 65 percent, should this be established by an antimonopoly body based on the stability of the share of the said economic entity, the relative shares in the market held by competitors, and possibilities for new competitors to gain access to that particular market or other criteria characterising the commodities market. The position of an economic entity whose share in the market of a particular commodity does not exceed 35 percent cannot be considered dominant;

monopolistic activity: conduct (or a failure to act) of economic entities, which is contrary to antimonopoly legislation and are directed towards prevention, restriction or elimination of competition;

monopolistically high price: the price of a commodity fixed by an economic entity occupying a dominant position in a particular commodity market, as a result of which this economic entity compensates or may compensate unjustified expenses and/or receives or may receive a considerably higher profit than possible under comparable conditions or under conditions of competition.

monopolistically low price: the price of a commodity fixed by an economic entity occupying a dominant position in the market as a buyer, with the object of making extra profits and/or compensating for unjustified expenses at the expense of the seller; or the price of a commodity intentionally fixed by an economic entity having a dominant market position as a seller at a level causing losses from the sale of a particular commodity, the result of which is or could be the restriction of competition through forcing a competitor from the market;

antimonopoly body: federal antimonopoly body and its territorial agencies

acquisition of stock (shares) in the authorised capital of economic entities: the purchase and also the gaining of other possibilities for realising, either independently or through representatives, the voting rights embodied in such stock (shares), by means of fiduciary administration, agreements on joint activities, agency contracts, or on the basis of other transactions or on any other basis;

group of persons: a group of legal, or legal and natural, persons with respect to whom one or several of the following conditions are fulfilled:

a person or several persons jointly, by agreement (concerted practices) have the right, directly or indirectly to control (including on the basis of purchase-and-sale contracts, trusteeship agreements, agreements on joint activities, and on commission, or other transactions or on another basis) more than 50 percent of the total number of voting stock or contributions making up the authorised capital or aggregated capital of a participation of one legal person. Indirect control over the votes of a legal person is understood to mean the possibility of actual control over them through third persons in relation to whom the first person either exercises the above right or authority;

a person or several persons obtained an opportunity through an agreement or otherwise to determine decisions taken by another person or persons, including determining the terms and conditions of entrepreneurial activity for one or several parties to the agreement, or any other persons, or to discharge the functions of their executive body on a contractual basis;

a person has the right to appoint a sole executive body and/or more than 50 percent of the composition of the executive body of a legal entity and/or more than 50 percent of the composition of the Board of Directors (supervisory board), or another managerial body of a legal entity has been elected on the proposal of the person;

a natural person discharges the powers of the sole executive body of a legal entity;

the same natural persons, their spouses, parents, children, brothers, sisters and/or the persons proposed by one and the same legal entity constitute more than 50 percent of the composition of the executive body and/or the Board of Directors (supervisory board) or another managerial body of two or more legal entities or more than 50 percent of the composition of the Board of Directors (supervisory board) or another managerial body of two or more legal entities has been elected on the proposal of the same legal entities;

a natural person working within a legal person or in a number of legal persons forming one group is at the same time the single executive body of another legal person, or natural persons working in a legal person or a number of legal persons forming one group, constitute more than 50 percent of the composition of the executive body and/or the Board of Directors (supervisory board) or another managerial body of another legal person;

the same natural persons, their spouses, parents, children, brothers, sisters, and/or legal entities have the right to, either personally or through representatives (attorneys), control more than 50 percent of the votes falling on the voting shares or constituting the authorised or aggregated capital of each of two or more legal entities;

natural persons and/or legal entities have the right either directly or through representatives (attorneys), to control a total of more than 50 percent of the voting rights falling on the voting shares, constituting the authorised or aggregated capital of a legal entity and at the same time, these natural persons, their spouses, parents, children, brothers, sisters and/or the persons proposed by one and the same legal entity constitute more than 50 percent of the composition of the executive body and/or the Board of Directors (supervisory board) or another managerial body of another legal entity;

legal entities are participants in a financial-industrial group;

natural persons are spouses, parents and children, brothers and/or sisters;

the provisions related to a group of persons concern every person being affiliated to this group;

affiliated persons being natural persons and legal entities, capable of exerting influence on the activities of legal entities and/or natural persons pursuing entrepreneurial activities;

as affiliated persons of a legal entity appear:

a member of the Board of Directors (supervisory board) or another managerial body thereof, a member of the executive body as well as a person discharging the powers of the sole executive power thereof;

persons belonging to the same group of persons to which the given legal entity belongs;

persons having the right to control more than 20 percent of the total number of votes falling on the voting shares or constituting the authorised or aggregated capital of the participation of the given legal entity;

a legal entity in which the given legal entity has the right to control more than 20 percent of the total number of votes falling on the voting shares or constituting the authorised or

aggregated capital of the participation of the given legal entity;

if the legal entity is a participant in a financial-industrial group, its affiliated persons shall also include the members of the Board of Directors (supervisory board) or other managerial bodies, executive bodies of the participants in the financial-industrial group as well as the persons discharging the powers of sole executive bodies of the participants in the financial-industrial group;

as affiliated persons of a natural person pursuing entrepreneurial activity appear:

persons belonging to the same group of persons to which the given natural person belongs;

a legal entity in which the given natural person has the right to control more than 20 percent of the total number of votes falling on the voting shares or constituting the authorised or aggregated capital of the given legal entity. The provisions of the present law applying to economic entities shall also extend to groups of persons.

Section II

MONOPOLISTIC ACTIVITY

Article 5. Abuse of a Dominant Market Position by an Economic Entity

1. The actions (inaction) of an economic entity (group of persons), occupying a dominant position which has or might have as its result a prevention, restraint or elimination of competition and/or infringement upon the interests of other economic entities shall be prohibited, including such actions (inaction) as:

withdrawing commodities from the circulation, with the purpose or effect of creating or maintaining a deficit in the market or the raising of prices;

imposing on a contracting party contractual conditions which are not advantageous to it or do not relate to the subject of the contract (unjustified demands for the transfer of financial assets, other property, property rights, the contracting party's manpower, agreement to sign a contract only on the condition of inserting provisions therein concerning commodities in which the contracting party is not interested, etc.);

creating conditions for the access to a commodity market, exchange, consumption, purchase, production, sale of commodities, that place one or several economic entities in unequal positions compared with another economic entity or entities (discriminatory conditions);

creating obstacles to access to the market (or exit from the market) for other economic entities;

violating the procedure for price-setting established by normative acts

fixing and maintaining monopolistically high (low) prices;

reducing or discontinuing the production of commodities for which there is demand or orders from consumers, provided they can be produced without incurring losses;

refusing without justification to conclude a contract with particular buyers (customers) where production or delivery of the given commodity is possible.

2. In exceptional cases, actions (inaction) of an economic entity specified in point 1 of the present Article may be deemed to be lawful if the economic entity proves that the positive effect of its conduct, including in the socio-economic sphere, will exceed the negative consequences for the commodities market under consideration.

Article 6. Agreements (Concerted Practices) of Economic Entities Restraining Competition

1. Contracts, other transactions, agreements (in the following: agreement) or concerted practices, concluded between economic entities operating on the same commodity market(substitutes), which lead or may lead to

the fixing (maintenance) of prices (tariffs), discounts, mark-ups (subcharges), or increases;

the raising, lowering, or maintenance of prices at auctions and tenders;

the division of the market by territory, by volume of sales or purchases, by the types of commodities being sold, or by groups of sellers or purchasers (or customers);

the restriction of market access or elimination from the market of other economic entities as the sellers of specific commodities or the purchasers (or customers) thereof;

the refusal to conclude contracts with specific sellers or purchasers (or customers).

2. Also prohibited is the conclusion of contracts or concerted practices between economic entities being active on the market of the same commodity (substitutes) that lead or may lead to the prevention, restraint or elimination of competition and to the impairment the interests of other economic entities.

3. Agreements or concerted practices concluded between noncompeting economic entities on the relevant commodity market, receiving (potential purchasers) and offering (potential sellers) a commodity (substitutes), shall be prohibited if such agreements or concerted practices lead or may lead to the prevention, restraint or elimination of competition. The provisions of this paragraph are not applicable to economic entities whose combined share on the market of this specific commodity does not exceed 35%.

4. In exceptional instances, agreements or concerted practices of economic entities, stipulated in paragraphs 2 and 3 of the present Article, may be deemed to be lawful by the antimonopoly body in application of Art. 19(1) of the present law, if the economic entities prove that the positive effect of their practices, including in the socio-economic sphere, will exceed the negative consequences for the market of commodities under consideration or if the possibility of a conclusion of such agreement or realization of such concerted practices by the economic entities is foreseen by federal laws.

5. Prohibited is the coordination of entrepreneurial activities of commercial organisations which have or may have as a result a restraint of competition.

Based on a lawsuit instigated by the antimonopoly body, a violation of the above provisions shall constitute grounds for winding-up through a Court procedure with due process of law an organisation, coordinating the entrepreneurial activity.

Section II.1

Acts, Actions, Agreements or Concerted Practices Restraining Competition by Federal Executive Bodies, State Executive Bodies of the Subjects of the Russian Federation, Local Authorities, Other Bodies or Organizations Entrusted with Functions or Authority of the above Mentioned Bodies

Article 7. Acts and Actions of the Federal Executive Bodies, State Executive Bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies

1. Federal Executive Bodies, State Executive Bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies shall be prohibited from adopting acts and/or performing actions which limit the independence of economic entities, create discriminatory conditions for the activity of individual economic entities, if such acts or practices have or may have as a result the prevention, restraint, or elimination of competition and the impairment of the interests of economic entities, including the prohibition of the following:

introducing restrictions on the formation of new economic entities in any sphere of activity and imposing bans on the pursuit of certain types of activity or production of specific types of commodities, except for cases provided for by the legislation of the Russian Federation;

obstructing without grounds the pursuit of activity by economic entities in any sphere whatsoever;

imposing bans upon the sale (or purchase, exchange, or acquisition) of commodities from one part of the Russian Federation (or republic, land, region, district, city, or district in a city) to another or, otherwise, restricting the rights of economic entities in the sale (or acquisition, purchase, or exchange) of commodities;

giving economic entities orders concerning the priority delivery of commodities (or fulfillment of work, rendering of services) to a specific group of purchasers (or customers) or concerning the priority of concluding contracts without taking into account the priorities established by legislative or other normative act of the Russian Federation;

obstructing without grounds the formation of new economic entities in any sphere of activity whatsoever;

granting without grounds to an separate or several economic entities privileges placing them in a preferential position with regard to other economic entities operating in the market of the

same commodity.

2. Drafts of decisions of Federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies, on questions of granting benefits and privileges to one separate or several economic entities shall be subject to approval by an antimonopoly authority.

3. Prohibited shall be the vesting of the Federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies, with powers the exercise of which has or may have as a result a restraint of competition.

The combining of the functions of the Federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies, with those of economic entities shall be prohibited. Also prohibited shall be the vesting of economic entities with the functions and powers of the above bodies, including the functions and powers of the bodies of state supervision, except for the instances stipulated in legislative acts of the Russian Federation.

Article 8. Agreements or concerted practices of the Federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies

Agreements or concerted practices concluded in any form between the Federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies, or with an economic entity, shall be prohibited, if they have or may have as their result the prevention, restraint or elimination of competition and/or the impairment of the interests of economic entities, including agreements or concerted practices that lead or may lead towards:

the raising, lowering or maintenance of prices (or tariffs) with the exception of cases where the conclusion of such agreements is allowed by federal laws or normative legal acts of the President or Government of the Russian Federation;

the division of the market as to territory, volume of sales or purchases, the range of commodities being sold, or groups of sellers or purchasers (or customers);

the restriction of access to the market or elimination of economic entities therefrom.

Article 9. Antimonopoly requirements on carrying out tenders on the placement of orders for commodity supplies, the carrying out of works, the provision of services for State needs and for the needs of local authorities

1. The carrying out of a tender does not admit:

the creation of preferential conditions for a participation in a tender, including access to confidential information, the lowering of participation fees for some of the participants;

the participation in a tender by its organizers, their employees and affiliated persons;

the coordination of tender participants' activity by the organizers of a tender which results or may result in a restraint of competition between the participants or in the impairment of their interests;

the unjustified restriction of participants' access to the tender.

2. The violation of rules established by the present Article shall be considered as a ground for recognizing the tender invalid through a court procedure.

Section III

UNFAIR COMPETITION

Article 10. Forms of Unfair Competition

1. Unfair competition shall not be permitted, including the following cases:

the dissemination of false, inaccurate, or distorted information capable of causing losses to another economic entity or causing damage to its business reputation;

misleading consumers as to the character, means, and place of production, consumer properties, and quality and quantity of a commodity and its producers;

making an inaccurate comparison of commodities produced or sold by an economic entity with the commodities of other economic entities;

the sale, exchange or other introduction into the circulation of a commodity involving illegal use of the results of intellectual activity and other equal means of differentiation of a legal person, differentiation of products, works and services;

the receipt, use, or disclosure of information being considered a commercial or business secret, protected by law.

2. Unfair competition shall not be admissible when related to the acquisition and use of exclusive rights over the means of differentiation of a legal person, differentiation of commodities, works, or services.

3. The decision of an antimonopoly body concerning violations of paragraph 2 of the present Article concerning the differentiation of commodities, works, or services shall be submitted to the federal executive body responsible for patents and trademarks, in order to take a decision on the early termination of the validity of registration of the subject of exclusive rights or on the recognition of the registration of this subject as invalid, following the legal procedure on trademarks, marks for services, and the names of places of origin of commodities.

Section IV

ANTIMONOPOLY BODY

Article 11. Antimonopoly Body

1. The State policy of promoting the development of commodity markets and competition, State control over the observation of antimonopoly legislation as well as the prevention and the termination of antimonopolistic activity, unfair competition and other activities restraining competition are carried out by the antimonopoly body.
2. The powers of the federal antimonopoly body are determined by the current law and other normative legal acts of the Russian Federation.
3. In order to exercise its powers, the federal antimonopoly body is entitled to create territorial agencies and appoint responsible officials.
4. Territorial agencies are subordinate to the federal antimonopoly body and exercise their activities according to the legislation of the Russian Federation on the basis of a regulation approved by the federal antimonopoly body.
The federal antimonopoly body empowers territorial agencies with responsibilities within the limits of its own competence.

Article 12. Powers of the antimonopoly body

In accordance with the present law the antimonopoly body shall have the right to:

- 1 initiate legal procedures in case of actual signs of a violation of the antimonopoly legislation, and according to its results take decisions and give orders;
2. issue to economic entities binding orders:
 - as to the inadmission of actions that could be a threat of a violation of the antimonopoly legislation;
 - as to the elimination of the consequences of the violation of the antimonopoly legislation;
 - as to the restoration of the situation that existed before the violation of the antimonopoly legislation;
 - as to the compulsory division of a commercial or non-commercial entity or the separation of one or more constituent subdivisions out of their structure;
 - as to the alteration of conditions or rescission of contracts and other transactions;
 - as to the conclusion of contracts with economic entities;
 - as to the transfer to the federal budget of profits received as a result of violation of antimonopoly legislation;
 - as to the modification or restriction of the use of a registered trademark;
 - as to the execution of economic technical information and other requirements aimed at the prevention of discriminatory conditions;
 - as to the actions aimed at ensuring competition;

3. issue to the federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies, as well as to their officials binding orders: as to the abolition or alteration of acts adopted by them that contradict the antimonopoly legislation;
as to the cease of violations of the antimonopoly legislation;
as to the rescission or alteration of agreements concluded by them and in contradiction to the antimonopoly legislation;
as to the actions aimed at ensuring competition;

4. to impose administrative sanctions to commercial and non-commercial organizations, their leaders, natural persons, including individual entrepreneurs, as well as the officials of the federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies for violations of the antimonopoly legislation in cases and following the procedure established by the legislation on administrative violations;

5. to carry out the control of the observation of the antimonopoly legislation by economic entities, the federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies, to receive from them all necessary documents and information as well as written or oral statements;

6. to submit petitions to a general court or commercial court on matters concerning violations of antimonopoly legislation, including petitions:

to declare void in whole or in part:

acts, agreements of the federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies in contradiction to the antimonopoly legislation;

contracts and other transactions which do not comply with the antimonopoly legislation;

an obligatory conclusion of an agreement with another economic entity;

the liquidation of commercial and non-commercial organizations;

7. to participate in sessions of a general court or commercial court during the examination of cases connected with the application and violation of antimonopoly legislation;

8. establish the fact of a dominant position of an economic entity;

9. give clarifications on questions of the application of antimonopoly legislation;

10. to establish and keep a register of economic entities having a market share in a particular commodity market of more than 35%;

11. to issue conclusions on the presence or absence of limitations of competition on a commodity market at the introduction, modification or termination of customs' tariffs and on

the introduction of non-tariff measures;

12 to develop cooperation with international organizations and foreign State bodies, to participate in the elaboration and application of international treaties of the Russian Federation, in the activities of the intergovernmental and interdepartmental commissions coordinating the international cooperation of the Russian Federation, in the implementation of international programs and projects related to matters within the competence of the antimonopoly body;

13. to develop exchange of information with federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, international organizations and foreign State bodies within the limits of its competence;

14. to submit recommendations on the development of competition to corresponding federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies;

15. to analyze conditions of commodity markets;

16. to exercise other powers stipulated by this law.

Article 13. Right of access to information

Employees of the antimonopoly body, duly empowered for the purposes of fulfilling the functions entrusted to

them, shall have the right, on the condition that they provide their professional identification and a decision of the director (or his deputy) of the antimonopoly body to carry out an inspection, of unhindered access to federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies as well as to economic entities, with the objective to receive, according to the established procedure, documents and information needed by the antimonopoly body to carry out its functions.

The police authorities shall be obliged to render practical assistance to the employees of the antimonopoly body in executing their duties.

Article 14. Duties with Respect to the Provision of Information to the antimonopoly body

Commercial and non-commercial organisations (their directors), federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies (their officials), natural persons, including individual entrepreneurs shall be obliged upon request of antimonopoly body to submit trustworthy documents, written and oral explanations, and other information required for the pursuit by antimonopoly body of its lawful activity.

Article 15. Duties of the antimonopoly body with regard to compliance with commercial and service secrecy as well as secrecy protected by law

Information constituting a commercial or service secret or a secret protected by law which has been received by the antimonopoly body while exercising its powers shall not be subject to disclosure except for cases foreseen by federal law.

In the event of the disclosure of information constituting a commercial or service secret by the employees of the antimonopoly body, losses caused shall be subject to compensation in conformity with the civil legislation.

Article 16. deleted

Section V

SPECIFIC TYPES OF STATE ANTIMONOPOLY CONTROL

Article 17. State Control over the Formation, Reorganisation and Winding-up of Commercial and Non-Commercial Organisations

1. The merger and acquisition of commercial organisations whose total amount of assets according to the last balance sheet exceeds 30.000.000 times the minimum wage, fixed by federal law, shall be subject to a prior approval by the antimonopoly body.
2. Persons or bodies making decisions on a merger or acquisition of commercial organisations shall submit to the antimonopoly body, besides the documents submitted to the registering bodies, in accordance with the legislation of the Russian Federation, an application for obtaining permission for the merger or acquisition of commercial organisations, information on the main types of their activities and the volumes of commodities (work, services) produced and sold in relevant commodity markets as well as other information, including those in electronic form, as foreseen in a list approved by the federal antimonopoly body. The antimonopoly body shall notify the applicant in writing of the decision adopted no later than 30 days after the receipt of documents required.

If necessary, the period indicated above may be extended by the antimonopoly body, but by no more than 20 days.

3. The antimonopoly body shall reject the application, when considering the documents submitted, it is discovered that information contained therein, which is important for making the decision, is inaccurate as well as where the approval of the application may lead to a restraint of competition on the commodity market, including cases of the creation or strengthening of a dominant position of an economic entity or entities.
4. The antimonopoly body shall have the right to approve the application even when there is a possibility that the unfavourable consequences mentioned in paragraph 3 of the present

Article occur in the following cases:

where the persons or bodies making decisions on the merger or acquisition of commercial organisations prove that the positive effect of their actions, including in the socio-economic sphere, outweighs their negative consequences for the relevant commodity market;

where it issues an order to carry out actions aimed to ensure competition to the persons or bodies making a decision on the merger or acquisition of commercial organisations

5. The antimonopoly body shall be notified by the founders (participants) (one of the founders, participants), within 45 days from the date of state registration (or modification or amendment to the State Register of legal persons):

on the formation, merger and acquisition of non-commercial organisations (associations, unions, non-commercial partnerships) if there are at least two commercial organisations among the members of these organisations;

on modification of the composition of participants (members) of non-commercial organisations (associations, unions, non-commercial partnerships) if there are at least two commercial organisations among the members of these organisations;

on the creation of commercial organisations if the aggregated amount of the assets of their founders (participants) exceeds, according to the latest balance sheet, 2.000.000 times the minimum wage, fixed by federal law, as well as on the merger or acquisition of commercial organisations if their aggregated amount of the assets exceeds, according to the latest balance sheet, 2.000.000 times the minimum wage, fixed by federal law.

When notification is made to the antimonopoly body, the applicant shall submit information in accordance with paragraph 2 of the present Article.

The requirements of the present paragraph shall be extended to non-commercial organisations which coordinate or intend to coordinate the entrepreneurial activities of their participants (members).

6. In cases where the actions foreseen in paragraph 5 of the present Article may result or resulted in a restriction of competition, the founders (participants) of a commercial or non-commercial organisation, or persons, or bodies which have adopted a respective decision, shall be obliged, at the order of the antimonopoly body, to take measures to ensure competition.

7. In the cases foreseen in paragraph 5 of the present Article, persons or bodies adopting decisions on the

formation, merger or acquisition, shall have the right, prior to the adoption of such decisions, to request the consent of the antimonopoly body that has the obligation to consider respective applications in the order established in paragraph 2 of the present Article.

8. State registration of commercial organisations, and also the making of a record excluding commercial organisations from the Unified State Register of legal persons, shall be implemented by the registering body with the preliminary consent of the antimonopoly body.

9. The formation, merger, acquisition of commercial and non-commercial organisations, the modification of the composition of participants of non-commercial organisations in violation

of the procedure established in paragraphs 1 and 5 of the present Article, leading to a restraint of competition, including cases where this occurs as a result of the creation or strengthening of a dominant position, as well as a failure to meet the requirements put forward by the antimonopoly body, issued in accordance with paragraph 4 and 6 of the present Article, shall be grounds for their liquidation by court upon suit of the antimonopoly body.

Article 18. State Control over Compliance with Antimonopoly Legislation when Stock (Shares) in the Authorised Capital of Commercial Organisations are Acquired, and in Other Cases

1. The following transactions shall be implemented with the preliminary permission of the antimonopoly body on the basis of an application from a legal or natural person:

acquisition by a person (group of persons) of voting stock (shares) in the authorised capital of an economic entity, giving such a person (group of persons) the right to dispose of more than 20 percent of such stock (shares). The said requirement shall not apply to the founders of an economic entity at its formation;

acquisition by one economic entity (group of persons) of the rights of ownership or use of fixed or intangible assets of another economic entity where the value in the balance sheet of assets constituting the object of the transaction (related transactions) exceeds 10 percent of the value in the balance sheet of the fixed or intangible assets of the economic entity alienating or transferring the property;

acquisition by a person (group of persons) of the rights allowing them to determine conditions for the economic entity to conduct its entrepreneurial activity, or to perform functions of its executive body.

2. Preliminary consent to the conclusion of transactions listed in paragraph 1 of the present Article shall be required where the total value in the balance sheet of assets of persons mentioned in paragraph 1 of the present Article exceeds 30.000.000 times the minimum wage, fixed by federal law, or where one of them is an economic entity included in the Register of Economic Entities having a share of over 35 percent of the market for a particular commodity, or where the buyer is a group of persons controlling the activity of the given economic entity.

The procedure for compiling the Register of Economic Entities having a share of over 35 percent of the market for a particular commodity (hereinafter referred to as «Register») shall be determined by the Government of the Russian Federation.

3. To carry out transactions mentioned in paragraph 1 of the present Article, the persons shall be obliged to submit to the antimonopoly body an application for obtaining consent for such transactions and also to present information which is necessary for making a decision, in accordance with paragraph 2 of Article 17 of the present law.

State control over transactions covered by this Article shall be exercised by the antimonopoly body in accordance with paragraph 2 of Article 17 of the present law.

4. The antimonopoly body shall reject the application where, when considering the documents submitted, it is discovered that information contained therein, which is important for making

the decision, is inaccurate or the parties to the transaction did not submit information required by the antimonopoly body within the fixed time limits, in accordance with paragraph 3 of the present Article as well as information on sources, conditions of acquisition and amount of financial resources and other property, which are necessary for carrying out transactions indicated in paragraph 1 of the present Article, and also where the satisfaction of the application may lead to a restraint of competition on the commodity market, including cases when it occurs as a result of the creation or strengthening of a dominant position of an economic entity or entities.

5. The antimonopoly body shall have the right to approve the application even where there is a possibility that the negative consequences occur, as mentioned in paragraph 4 of the present Article, in the following cases:

if the parties to the transaction prove that the positive effect of their actions, including in the socio-economic sphere, outweighs their negative consequences for the relevant commodity market.

if it issues an order to carry out actions aimed to ensure competition.

The decision of the antimonopoly body to give its consent to the implementations of transactions, specified in paragraph 1 of the present Article, shall become invalid if such transactions have not been carried out within one year since the date of this decision.

6. The antimonopoly body shall be notified by application submitted by a legal or natural person within 45 days from the date of the realisation of the transaction specified in paragraph 1 of the present Article if the total value of assets in the last balance sheet of the persons mentioned in Point 1 of the present Article exceeds 2.000.000 times the minimum wage, fixed by federal law.

Economic entities whose total value of assets in the last balance sheet exceeds 2.000.000 times the minimum wage, fixed by federal law, or the economic entities included in the register of economic entities having a share of over 35 percent of the market for a particular commodity, have the obligation to notify the antimonopoly body about the election of natural persons to the executive bodies, boards of directors (supervisory boards) within 45 days from the date of election. When submitting a notification to the antimonopoly body the applicant submits together with the application information stipulated in paragraph 3 of the present Article.

7. In cases where actions as foreseen by paragraph 6 of the present Article resulted or may result in a restraint of competition, including cases where this occurs as a result of the creation or strengthening of a dominant position of an economic entity or entities, persons that carried out such actions shall be obliged at the order of the antimonopoly body to carry out actions aimed at ensuring competition.

8. In the cases provided for by paragraph 6(1) of the present Article, the said persons shall have the right to request the consent of the antimonopoly body, prior to the completion of such actions; following the established procedure.

9. Transactions concluded in violation of the procedure established by the present Article, leading to a restraint of competition, including cases when it occurs as a result of the creation

or strengthening of a dominant

position, may be nullified by a court decision, based on a suit of the antimonopoly body.

Failure to comply with the decisions and orders issued by the antimonopoly body in accordance with paragraphs 5 and 7 of the present Article shall be grounds for nullifying the given transaction based upon suit of the antimonopoly body.

Article 19. Compulsory Division (Separation) of Commercial and Non-commercial Organisations Engaged in Entrepreneurial Activity

1. In the event that commercial and non-commercial organisations, engaged in entrepreneurial activity, occupy a dominant position, the antimonopoly body has the right to issue an order on a compulsory division or separation of one or several organisations on the basis of their structural subdivisions in the case that they systematically carry out monopolistic activity. Systematically carrying out monopolistic activity means more than two detected cases of monopolistic activity, according to the established procedures, within a period of three years.

2. A decision on compulsory division (separation) of a commercial organisation shall be adopted provided all of the following conditions are met:

it leads to the development of competition;

there is a possibility of organisational and regional separation of its structural subdivisions;

there is no close technological interdependence between its structural subdivisions (in particular, if the volume of output (work, services) of the structural subdivision used by the legal person does not exceed 30 percent of the total volume of output (work, services) produced by this structural subdivision);

as a result of the reorganisation, legal persons shall be able to operate independently in the market of a particular commodity.

3. An order of the antimonopoly body on compulsory division (separation) of commercial or non-commercial organisations engaged in entrepreneurial activity shall be carried out by the owner or a body authorised by the owner, with due consideration given to the requirements stipulated in this decision and within the time-period specified in it, which however cannot be less than six months.

Article 19.1. State Control Over Agreements or Concerted Actions of Economic Entities Restraining Competition

1. In accordance with paragraph 4 of Article 6 of the present law, economic entities intending to conclude an agreement or to commit concerted actions shall have the right to file an application to the antimonopoly body asking to verify whether the agreement or concerted actions are in conformity with the requirements of the antimonopoly legislation.

2. When economic entities or representatives therefrom, intending to conclude an agreement or to comit concerted actions, apply to the antimonopoly body, they also submit information in accordance with the list of information approved by the federal antimonopoly body.

3. Within 30 days from the date of receiving all information necessary for the consideration of the application, the antimonopoly body shall make a decision on the conformity or non-conformity of the agreement or concerted actions with the requirements of the antimonopoly legislation.

The decision on the conformity of the agreement or concerted actions with the requirements of the antimonopoly legislation.can be refused for the following reasons:
conditions stipulated in paragraphs 1,2 and3 of Article 6 of the present law;
inaccuracy of information relevant for making a decision submitted by economic entities.

Failure to submit information as foreseen by paragrapg 2 of the present Article is considered a reason for refusal to render a decision on the application.

The antimonopoly body may extend, when necessary, the term of consideration of the application, but for not more than 20 days. The antimonopoly body shall inform in writing the applicant about the extension of the term of consideration of the application with the indication of reasons for the extension.

4. The decision of the antimonopoly body on the conformity of agreements or concerted actions with the requirements of the antimonopoly legislation is invalidated if such an agreement has not been reached or concerted actions have not been committed within two years from the date of the taking of the respective decision.

5. The antimonopoly body has the right to issue, together with a decision on the conformity of agreements or concerted actions with the requirements of the antimonopoly legislation, an order to the parties of the agreement or concerted actions, aimed at ensuring competition.

6. The antimonopoly body has the right to revoke a decision on the conformity of agreements or concerted actions with the requirements of the antimonopoly legislation, where:
after the decision had been taken it was detected that the information relevant for making a decision submitted by the parties was inaccurate;
the parties to the agreement or concerted actions do not fulfill the order issued by the antimonopoly body as foreseen in paragraph 5 of the present Article.

Article 20. deleted

Article 21. deleted

Section VI

LIABILITY FOR VIOLATION OF ANTIMONOPOLY LEGISLATION

Article 22. Obligatory Fulfilment of Decisions and Orders of the Antimonopoly Body

Commercial and non-commercial organisations (their managers), federal executive bodies, State executive

bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies (their officials), natural persons, including individual entrepreneurs, shall have the obligation to carry out the actions stipulated in the decision or order issued by the antimonopoly body in accordance with the time frame established therein.

Article 22.1 Types of Liability for a Violation of the Antimonopoly Legislation

1 In the event of a violation of antimonopoly legislation, responsible officials of federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies, commercial and non-commercial organisations or their managers, as well as natural persons, including individual entrepreneurs, shall bear civil law, administrative or criminal liability.

2. Persons held liable in accordance with paragraph 1 of the present Article shall not be relieved from the obligation to fulfill a decision or order issued by the antimonopoly body to submit for their consideration an application (notification) or to carry out actions foreseen in the antimonopoly legislation.

Article 23. deleted

Article 23.1. Recovery of Income Obtained as a Result of Monopolistic Activity or Unfair Competition

Revenue obtained as a result of a violation of the antimonopoly legislation by an economic entity, whose actions have been recognised as monopolistic activity or unfair competition, shall be subject to recovery, in the case that the relevant order has not been carried out, into the federal budget by a court decision following the suit filed by the antimonopoly body.

Article 24. deleted

Article 25. deleted

Article 26. Compensation of Losses caused to Economic Entities

Losses caused to a natural or legal person as a result of illegal actions (inaction) of federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies, including those caused as a result of an adoption of legal acts in violation of antimonopoly legislation, or losses caused by a failure to fulfil, or improper fulfilment by the said bodies of their duties, shall be subject to compensation by the Russian Federation, by relevant subjects of the Russian Federation or by local entities.

Section VII

THE PROCEDURE FOR ADOPTING DECISIONS AND ISSUING ORDERS BY THE ANTIMONOPOLY BODY AND FOR APPEALING AGAINST THEM

Article 27. Adopting Decisions and Issuing Orders by the Antimonopoly Body

1. The antimonopoly body shall issue decisions and orders as foreseen by the present law within the limits of its competence.
2. Submissions of bodies, applications of organisations and natural persons as well as initiatives of the antimonopoly body shall be grounds for initiating and consideration of cases for the adoption of decisions and the issuance of orders by the antimonopoly body.
3. Decisions and orders aimed at preventing the creation of discriminatory conditions shall be oriented, if possible, towards competitive principles and may contain requirements for ensuring the access for interested persons to information that should allow them to make a comparison of conditions of commodities circulation and/or access to the market and/or requirements to publish the above mentioned information in mass media, as well as economic, technical and other requirements.
Federal laws and other normative legal acts of the Russian Federation may establish requirements aimed at the prevention of the creation of discriminatory conditions. These requirements should not contradict provisions of the present law.
4. The antimonopoly body shall consider submissions of bodies, applications of organisations and natural persons, adopt decisions and issue orders foreseen in the present law, as well as control the observation of the antimonopoly legislation, in accordance with the procedure established by the federal antimonopoly body.

Article 28. The Procedure for Lodging an Appeal Against Decisions and Orders of the Antimonopoly Body

1. Federal executive bodies, State executive bodies of the subjects of the Russian Federation, local authorities, other bodies or organizations entrusted with functions or authority of the above mentioned bodies (or their officials), commercial and non-commercial organisations

(their managers), natural persons including individual entrepreneurs, shall have the right to turn to a general court or a commercial court with an appeal to declare decisions and orders of the antimonopoly body fully or partially invalid.

2. The lodging of an appeal shall suspend for the time of its consideration in a general court or a commercial court, until the decision of the general court or the commercial court enters into effect, the implementation of a decision and order of the antimonopoly body on a transfer to the federal budget of the revenue obtained as a result of a violation of the antimonopoly legislation, on the compulsory division of a commercial or non-commercial organisation, or of the separation of one or more constituent subdivisions out of their structure, on the modification of conditions, or on the termination of contracts or other transactions, on the conclusion of agreements with economic entities.

In all other cases, stipulated in paragraph 2 of Article 12 of the present law, the lodging of an appeal shall not suspend the execution of decisions and orders of the antimonopoly body.

A decision or order of the antimonopoly body may be appealed within three months from the date when it was

taken.

Article 29. deleted

First Deputy Chairman of the Supreme Soviet of the RSFSR
The House of Soviets of the RSFSR
Moscow, 22 March 1991

R.I. Hasbulatov
