

Statistical Data 2016

FAS Russia

In 2016, the total staff of the FAS Russia was 3504,1189 of which are the public servants of the Central Office of the FAS Russia, 2315 public servants work in the 84 FAS Russia's Regional Offices in subjects of the Russian Federation. From the total 3504 staff, 2316 work on competition enforcement and tariff regulation (not divided). Other public servants work on enforcement related to procurement and advertising.

ANTI-CARTEL

First-in leniency/immunity applications - 60

Total leniency applications - 91

dawn raids carried out - 69

cartel decisions issued - 284

decisions concluded with fines - 284

total of cartel fines - 1 767 470 764 RUB

average fine per cartel - 6 223 489 RUB

The average duration of a cartel investigation in the Central Office of the FAS Russia is 1-2 years (from the moment of the receiving of initial information until the issuing of decision on a case).

Fines on all the types of infringements go to the federal budget of the Russian Federation. The Departments of the Central Office of the FAS Russia and its Regional Offices conduct inspections of timely payment of fines within their powers. In case of failure to pay a fine, it is collected through an enforcement procedure by an authorized authority (the Federal Bailiff's Service).

ABUSE OF DOMINANCE

investigations launched - 1340

investigations closed - 1340 (there were 713 decisions on violation, 627 investigations were stopped because of absence of fact of violation).

According to the Federal Law on Protection of Competition, the period for consideration of an application submitted to the FAS Russia is one month. However, the FAS Russia can prolong this period if there is a need to collect missing data, other evidence, or to examine the application more precisely.

If the FAS Russia takes decision on initiating the case, the period of investigation can be from 3 up to 9 months.

total fines - 1594206305 RUB

cases settled with behavioral conditions - 490

MERGER CONTROL

merger filings received - 1462 (1379 pre-merger notifications, 83 post-merger notifications)

mergers led to an in-depth review - 100

challenged merger filings blocked - 21

challenged mergers resolved with remedies - 39

The legally defined length of a merger review is one month from receipt of a merger notification (95% of all deals). The authority has a right to prolong a period of consideration for 2 months to obtain additional evidences. The total period of in-depth review is no more than 3 months.

CRIMINAL ENFORCEMENT

Both administrative and criminal liability is applied for violations of the antimonopoly legislation.

Criminal liability is based on Article 178 of the Criminal Code of the Russian Federation (the Criminal Code).

In accordance with the Russian legislation, criminal liability is stipulated only for individuals (criminal liability couldn't be applied for legal entities).

The authority, which performs criminal prosecution, is the Ministry of Interior Affairs of the Russian Federation (the MIA).

Enhancing the effectiveness of performance in relation to prevention and suppression of violations of the antimonopoly legislation, in 2004, the Regulation on Interaction between the MIA and the FAS Russia was adopted. The Regulation provides for such tools of cooperation as exchange of information between the authorities, assistance provided by the MIA to the FAS Russia's public servants with carrying out inspections of commercial and non-profit organizations in order to suppress illegal actions, which interfere in performance of official duties by employees of the FAS Russia, initiation by the MIA of legal proceedings based on materials provided by the FAS Russia, etc. The FAS Russia also provides assistance to investigation.

In accordance with Article 178 of the Criminal Code, the penalty for restricting competition by entering economic entities into cartels, if those actions have inflicted heavy damages (10 million rubles) or resulted in gaining income on a large-scale (> 50 million rubles), involves 3 years imprisonment. The penalty for the same actions:

- a) exercised by a person, abusing his/her position;
 - b) associated with liquidating or damaging somebody else's property, or the threat of its liquidation or damaging, in the absence of the elements of extortion;
 - c) which inflicted especially heavy damages (30 million rubles) or resulted in gaining income on especially large scale (250 million rubles),
- involves 6 years imprisonment. The penalty for the above mentioned actions committed with violence or a threat of violence involves 7 years imprisonment.

The Law also provides the leniency program.

In 2016, the FAS Russia transferred materials of 43 cases to the Ministry of Interior Affairs of the Russian Federation (the MIA). Based on materials of the FAS Russia, there were 8 criminal proceedings initiated in 2016.

The FAS Russia does not collect data on decisions in criminal cases, because the authority, which performs criminal prosecution, is the MIA.

Here are the examples of criminal cases, considered in 2016 and based on materials of the FAS Russia:

1. In 2016, the Department of the Federal Accreditation Service (Rosaccreditation) of the Southern and North-Caucasian Federal Districts suspected of violation of legislation by maintaining prices in 2014-2016 upon holding vehicle maintenance auctions.

The FAS Russia's Regional Office in Rostov adopted a decision, which formed the basis for criminal complaint against the former Head of the Rosaccreditation's Department. He was considered guilty by Leninsky district court of Rostov-on-Don to have committed a violation and sentenced to deprivation of liberty for 4,5 years. Rostov district court left the sentence unchanged.

2. In November 2015, the FAS Russia found that the Federal Agency for State Border Infrastructure Development (Rosgranica), State-owned Federal State Institution "Rosgranstroy" and "RosTransStroy" CJSC violated Article 16 of the Law on Protection of Competition (Prohibition of Competition-Restrictive Agreements or Concerted Practices of the Federal Executive Authorities, the Authorities of the Constituent Territories of the Russian Federation, Local Self-Government Bodies, Other Bodies or Organizations Exercising the Functions of the Above-Mentioned Bodies, as well as Public Extra-Budgetary Funds, the Central Bank of the Russian Federation) by embezzlement of public funds in the amount of 1.2 billion rubles, which were allocated by the Government for highway engineering, reconstruction, construction, infrastructure and other provision of the necessary facilities at border posts.

The management of these organizations established a collusive agreement, one of the outcomes of which was the illegal conclusion of contracts with "RosTransStroy" CJSC based on results of some of the bid results.

The materials of the antimonopoly investigation were forwarded to law enforcement agencies and were used by the latter when proving the guilt of the Rosgranica's and Rosgranstroy's management.

In 2016, the official of Rosgranica was sentenced to 4-year imprisonment for large scale fraud.

TOTAL FINES

total amount of fines - 4 276 991 649 RUB

Cartels - 41%

Abuse of Dominance/Monopolization - 37%

Other– 22%

(Prohibition of Unfair Competition, Prohibition of Acts and Actions (Inactions) of Federal executive authorities, Public Authorities of the Subjects of the Russian Federation, Bodies of Local Self-Government, Other Bodies or Organizations Exercising the Functions of the Above-Mentioned Bodies, as well as Public Extra-budgetary Funds, the Central Bank of the Russian Federation that Restrict Competition)

In 2016, the FAS Russia initiated 4040 proceedings, which demonstrates a 55% decrease in initiation of proceedings¹ in comparison with the previous year. (Thus, in 2015, there were 9092 proceedings.) There were 2734 decisions on violation of the antimonopoly legislation. 1907 of them (69.8%) were appealed before the courts. 293 of them (10.7%) were canceled by the courts.

The FAS Russia is focused on violations that may influence protection and development of competition in general, the rights of enterprises and uncertain number of consumers (a shift away from low-priority cases);

As a result:

- increase in number of warnings and admonitions issued;
- high percentage of warnings executed (after issuing warnings, a significant number of violations are eliminated, before the antimonopoly proceedings are being launched);
- decrease in number of proceedings initiated by the antimonopoly body.

¹ Due to extension of warnings system and some other changes to the competition legislation