

FEDERAL ANTIMONOPOLY SERVICE

Effective Remedies and Settlements

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FAS Russia

FAS Russia – an independent government body, which reports directly to the Government of the Russian Federation.

FAS functions in each of the 83 constituent territories of the Russian Federation.



FAS powers:

- ***Competition protection and antimonopoly regulation***
- ***Control over public procurement***
- ***Control over natural monopolies***
- ***Control over distribution of property, resources and rights on the competitive basis.***

In 2012, FAS completed reforms of the antimonopoly law (the “third antimonopoly package” and the set of agreements on the Common Economic Space came into force). FAS has built-up a robust legislative and institutional framework for efficient competition policy.



FAS objective – to focus on increasing enforcement efficiency based on the best world practices.

Implementation – to develop a long-term strategy out to 2024

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Developing mechanisms for preventing violations

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.

Developing mechanisms for preventing violations

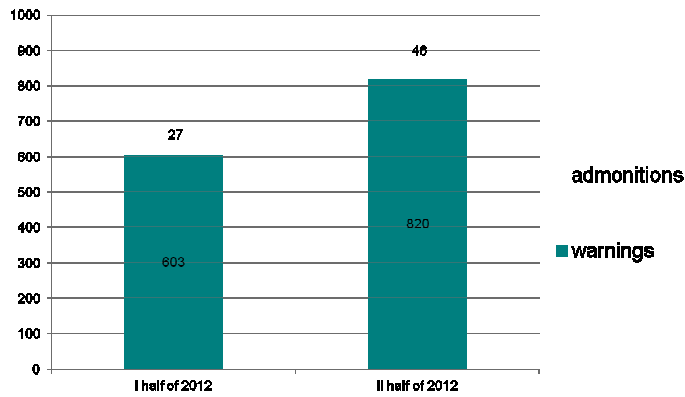
- *Expanding employment of the statutory mechanisms of warnings and cautions (3/4 of the issued warnings are executed on schedule)*
- *Competition advocacy*
- *Vigorously developing the market of legal services in the field of competition*
- *Establishing law societies and associations in Russia*
- *Introducing a compliance system*



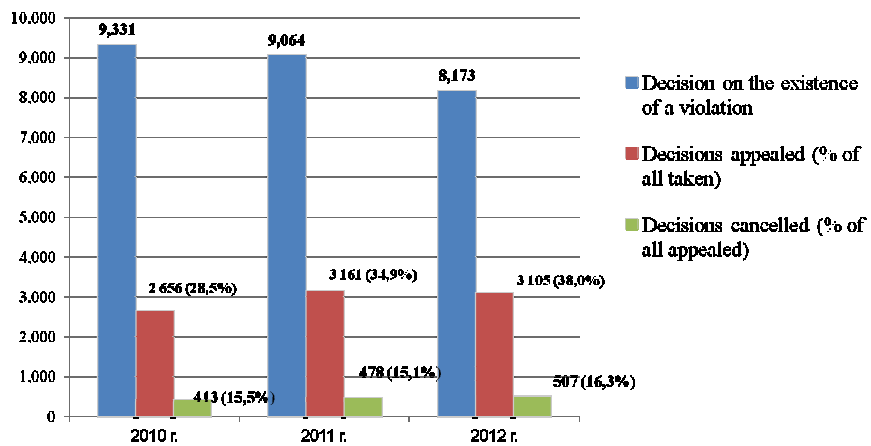
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Application of new institutions

75% of the warnings issued were executed, the number of the cases initiated decreased by 12,4% in comparison with 2012



Results of the appealing FAS Russia decisions - demonstration of the Authority' efficiency



Largest fines for competition infringements (2008-2013)

Total fines collected in 2008 – 2012 and transferred to the budget amounted to 1 billion USD.

EU	2009	Intel	Microchips	\$1,35 billion
EU	2013	Microsoft	Software	2013 – \$730 million, recent 10 years ~ \$3 billion
EU	2008	Saint-Gobain	Glass production	\$1,27 billion
EU	2010	Air France – KLM	Air cargo	\$453 million
EU	2012	Philips	Color picture tubes for televisions and color display tubes used in computer monitors	\$406 million
EU	2010	Arcelor Mittal	Steel wires	\$368 million
EU	2013	Yazaki	Wire harness supply	\$164 million
RF	2009	Gazpromneft	Oil products	\$155 million
EU	2010	British Airways	Air cargo	\$138 million

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Largest fines for competition infringements (2008-2013)

EU	2012	Colour picture tubes for televisions and colour display tubes used in computer monitors	\$1,9 billion
USA	2010	Air cargo	\$1,85 billion
EU	2008	Glass production	\$1,6 billion
EU	2010	Air cargo	\$1,1 billion
EU	2010	Bathroom equipment	\$830 million
EU	2012	Gas supply	\$700 million
EU	2010	Steel wires	\$690 million
RF	2009	Oil products (TNK-BP, Gazpromneft, Rosneft, Lukoil)	\$470 million
EU	2010	DRAM chips	\$440 million
EU	2013	Wire harness supply	\$186 million

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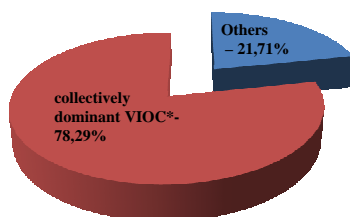
Antimonopoly regulation and control for oil and oil products market

The Structure of the of oil and oil products market in the Russian Federation

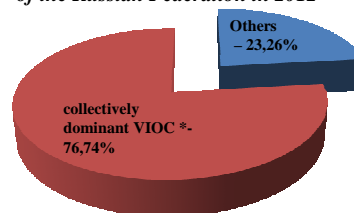
The dynamics of oil extraction, 2008 to 2012, millions of tons.



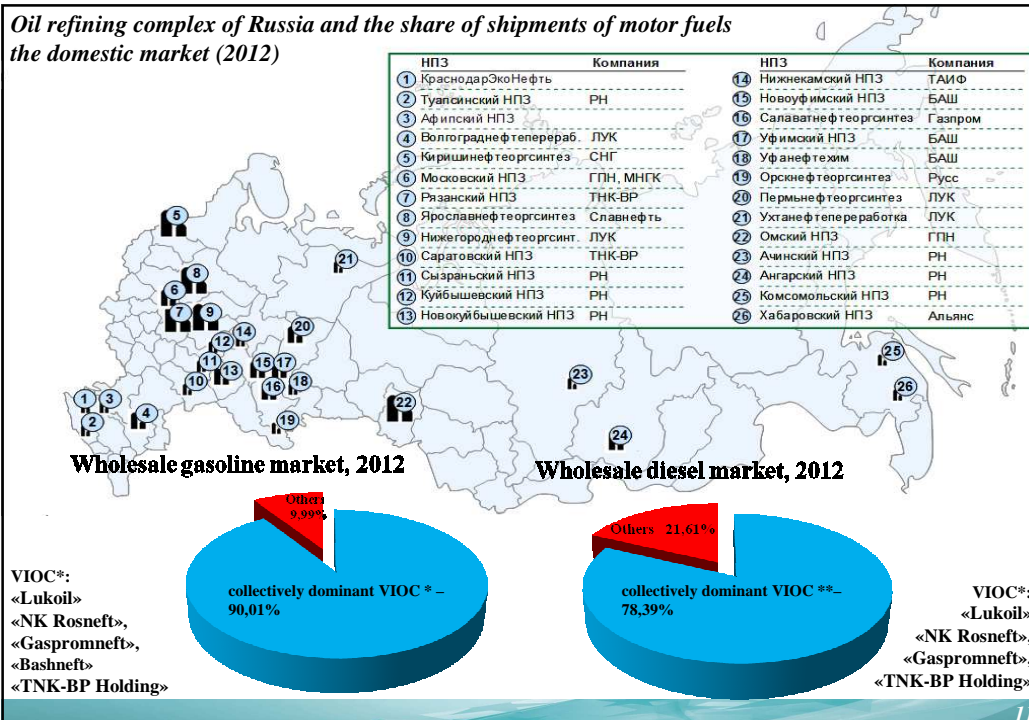
Crude oil extraction in 2012



Supply of crude oil to the domestic market of the Russian Federation in 2012



VIOC*: Open joint stock companies «Surgutneftegas», «Lukoil», «Gaspromneft», «NK Rosneft» and «TNK-BP Holding»



Consideration of Cases on Violations by Oil Companies of the Antimonopoly Legislation

During 2008-2012, in the Russian Federation, the FAS Russia considered three “waves” of cases of violations of the antimonopoly legislation in the federal wholesale market of oil products in relation to the largest vertically integrated oil companies: “ANK “Rosneft”, JSC, “Gazprom Neft”, JSC, “LUKOIL”, JSC, “TNK-BP Holding”, JSC, and Bashneft ANK, JSC.

The following types of the antimonopoly legislation were detected:

- setting monopolistically high prices of oil products .
- withdrawal of goods from circulation.
- creating discriminatory conditions for the buyers in the wholesale markets of oil products in the Russian Federation.
- establishing economically, technologically and otherwise unreasonable different prices to oil products.

In addition to the situation on the physical market (oil products), the subject of these cases was the activities of the electronic trading platform (ETP). It should be noted that based on the results of the consideration of these cases the fines imposed amounted to more than 500 million Euros, and, what is more important, the instructions were issued to begin exchange trading in physical commodities (oil products).

Consideration of Cases on Violations by Oil Companies of the Antimonopoly Legislation

The first “wave” of cases in relation to VIOCs.

In 2008, the FAS Russia recognized that, in the 4th quarter of 2007 and the 1st half of 2008, the largest vertically integrated oil companies (“Gazprom Neft”, JSC, “TNK-BP Holding” JSC, «ANK “Rosneft”, JSC and “LUKOIL”, JSC) violated Part 1 Article 10 of Federal Law of 26.07.2006 No.135-FZ “On Protection of Competition”.

The violation consisted in setting monopolistically high prices of petroleum products; creating discriminatory conditions for the buyers in the wholesale markets of petroleum products in the Russian Federation; establishing economically, technologically and otherwise unreasonable different prices to oil products.

The second “wave” of cases in relation to VIOCs.

In 2009, the Federal Antimonopoly Service established, that in the beginning of 2009, “TNK-BP Holding”, JSC, “Gazprom Neft”, JSC, «ANK “Rosneft”, JSC and “LUKOIL”, JSC carried out the withdrawal of goods from circulation, which resulted in an increase of goods’ prices. The FAS Russia considered these actions as regular violations of the Law on Protection of Competition.

ANALYSIS AND EVALUATION OF COMPETITIVE ENVIRONMENT

Analysis and evaluation of the competitive environment at the product market and establishment of a dominant position of the economic entity are performed by the FAS Russia in accordance with:

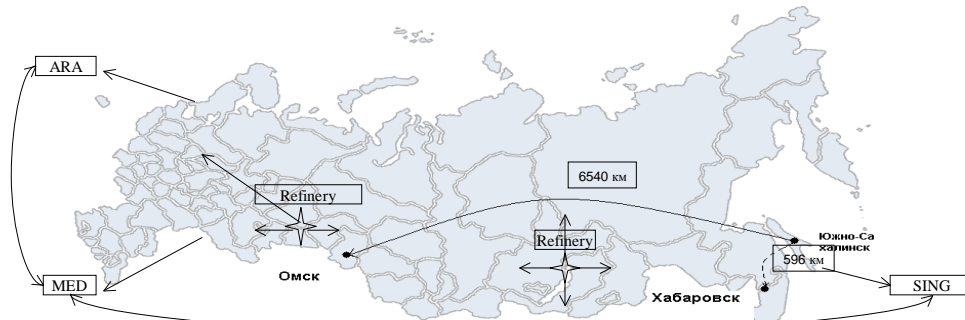
- Federal Law dated 26.07.2006 No.135-FZ “On Protection of Competition”;
- Procedure of Analyzing and Evaluating the Competitive Environment at the Product Market approved by Order of the FAS Russia dated April 28, 2010 No. 220;
- Administrative Regulation of the Federal Antimonopoly Service on Executing the State Function on Establishing a Dominant Position of an Economic Entity at the Consideration of Cases on Violating Antimonopoly Legislation and at the Performing of State Control over Economic Concentration approved by Order of the Federal Antimonopoly Service dated May 25 2012 No.345.

Geographic boundaries of the Wholesale Market of Oil Products are Defined within the Russian Federation

In the federal market, 3-5 VIOC hold a dominant position.

Consumers tend to choose a supplier throughout the country

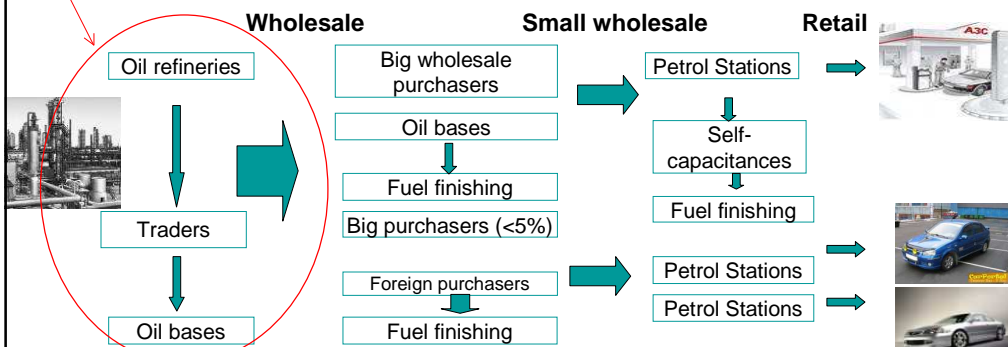
Suppliers, overstating sales prices, and discriminating against independent buyers, creating obstacles to the conclusion of direct contracts, seek to locate the market.



Fact: a consumer (an independent trader) does not acquire light petroleum products at an inflated price on the nearby refinery, and buys the goods on distant refineries at an efficient price. From all the refineries fuel oil and diesel fuel are exported, and delivered to the vast number of the Russian regions, that is, transportation costs are not a deterrent for delivery within the federal market. At the federal wholesale market of oil products change in conditions of consumption in one place leads to a change in the freight in the market as a whole. Similarly, in global markets: change in terms of sales in one of the major trading centers (ARA, MED, SING) leads to a change of general conditions of sales. Fuel from the Russian Federation is exported at world prices. World prices have an impact on the domestic market, taking into account the protective measures.

Petroleum market is divided into 3 major segments depending on sellers and buyers and purposes of use: big wholesale, small wholesale and retail. The wholesale market differs from the retail one by vendors, vendees, purposes of use (for the retail market it is personal needs)

Prices in the wholesale segment predetermine situation on the small wholesale and retail markets: price of "the first sale" from the refinery constitutes more than 75% of the retail price for motor fuel



In general structure of oil products petrol is characterized by stable share with increase in production. Alongside with that the share of low-octane petrol is reducing, while the share of high-octane petrol is increasing. Collective dominance is typical for petrol in general and for the low-octane segment as well.

The significant share of petrol, supplied for export and internal market, is used not for the end consumption but for further refinement.



Structure of wholesale of low- and high-octane petrol \neq Structure of retail sale of low- and high-octane petrol



Judicial Practice

All decisions and prescriptions of the FAS Russia on two “waves” of cases of violation of antimonopoly legislation committed by the largest vertically integrated oil companies have been challenged in commercial courts. As part of the “third wave” of cases the oil companies have recognized the fact of the violation. The amount of fines transferred to the budget of the Russian Federation is more than 500 million EURO.

May 25, 2010 The Presidium of the Supreme Commercial (Arbitration) Court of the Russian Federation confirmed the validity of the decision and the prescription of the FAS Russia in relation to OJSC “TNK-BP Holding”.

February 15, 2011 The Presidium of the Supreme Commercial (Arbitration) Court confirmed validity of the decision and the prescription of the FAS Russia in relation to JSC “Gazprom Neft”. The interpretation of the law contained in the resolutions of the Presidium of the Supreme Commercial (Arbitration) Court of the Russian Federation is obligatory and is subject to the use by commercial courts in considering similar cases.



The resolutions establish the following:

- geographical boundaries of the commodity market is **the territory of the Russian Federation;**
- **effective dominance** of open joint stock companies “NK Rosneft”, “Lukoil”, “Gaspromneft” and “TNK-BP Holding”;
- **product boundaries of the wholesale markets** - motor gasoline, diesel and jet fuel, because the mentioned goods **can not be substituted** for other goods at consumption.

Consideration of Cases on Violations by Oil Companies of the Antimonopoly Legislation

The third “wave” of cases in relation to VIOCs.

In the middle of 2011, the FAS Russia found the fact of violation of the antimonopoly legislation in actions of the group of persons “LUKOIL”, JSC, «ANK “Rosneft”, JSC, and “Gazprom Neft” JSC. The violation resulted in the establishment of a monopolistically high price to diesel fuel and jet fuel in the period of the 4th quarter of 2010 and the beginning of 2011, as well as in the creation of discriminatory conditions in these markets.

In the end of 2011, the FAS Russia held that Bashneft ANK, JSC had violated Paragraph 1 Part 1 Article 10 of the Law on Protection of Competition. This violation consisted in creating discriminatory conditions in the wholesale market of motor fuel and establishing and maintaining monopolistically high prices on the wholesale market of motor fuel during the period from April to September 2011.

As part of the third wave of cases all companies admitted the violation of the antimonopoly legislation, agreed with the decision of the FAS Russia and have taken action to eliminate violations.

Results

The legal framework that promotes trading began forming taking into account practice of competition law enforcement. The following legal acts were adopted:

The Federal Law of 26.07.2006 No. 135-FZ “On Protection of Competition” was amended (the “Third Antimonopoly Package”), which became valid since January 6, 2012. The amendments establish the requirements for formation of market prices at the exchange trades. Fulfillment of these requirements will form an objective market indicator to oil products.

The Federal Law of 21.11.2011 No. 325-FZ “On Organized Trading”, in accordance with which since 2014 the Federal Service for Financial Markets of Russia will regulate, supervise and license the operations of the electronic trading platforms (ETP) as the organizer of trades.

Trading practices of oil companies

In 2012 FAS issued a determination to “TNK- BP Holding” OJSC to exercise actions aimed at developing competition. According to a determination of the Federal Antimonopoly Service (FAS Russia), “TNK- BP Holding” OJSC presented the “Pricing Procedures and General Principles of Selling Motor Petrol on the wholesale markets in the Russian Federation”

December 26, 2012 FAS Russia agreed the “Pricing Procedures and General Principles of Selling Motor Petrol on the wholesale markets in the Russian Federation” Bashneft” ANK” OJSC.

On 22nd February 2013, the Federal Antimonopoly Service (FAS Russia) signed Commercial Practices with “Gazprom Neft” OJSC for sales of gasoline, diesel fuel and aviation fuel on the wholesale markets of the Russian Federation.

The objectives of signing the Commercial Practices are:

- Ensuring maximum sales transparency for the existing and potential buyers, regulators, Company’s, employees, and other interested persons;
- Preventing violations of the current law of the Russian Federation;
- Informing about the company’s policy on sale of oil products in the Russian Federation, particularly, about the procedures for choosing counteragents and pricing.

These documents and their implementation will be an important step in the formation of a civilized market is not discriminatory conditions in the markets of oil and petroleum products in the Russian Federation.

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