



**Asia-Pacific  
Economic Cooperation**

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**2012/SOM1/CPLG/037**

Agenda Item: 8

## **Russian Federation Federal Law on Protection of Competition**

Purpose: Information  
Submitted by: Russia



**Competition Policy and Law Group Meeting  
Moscow, Russia  
12-13 February 2012**



**FEDERAL LAW**

**ON PROTECTION OF COMPETITION**

**№ 135-FZ OF JULY 26<sup>TH</sup>, 2006**

(AS AMENDED IN 2011)

**RUSSIAN FEDERATION**  
**FEDERAL LAW**  
**ON PROTECTION OF COMPETITION**

Adopted by  
the State Duma  
on July 8, 2006

Approved by  
the Federation Council  
on July 14, 2006

*(as amended in 2011)*

**Chapter 1. General Provisions**

**Article 1. Subject and Objectives of this Federal Law**

1. The Federal Law determines organizational and legal basis for protection of competition including prevention and restriction of:

1) monopolistic activity and unfair competition;  
2) prevention, restriction, elimination of competition by 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.

2. Objectives of this Federal Law are to ensure common economic area, free movement of goods, protection of competition, and freedom of economic activity in the Russian Federation and to create conditions for effective functioning of the goods markets.

**Article 2. Antimonopoly Legislation of the Russian Federation and Other Statutory Legal Acts on Protection of Competition.**

1. The antimonopoly legislation of the Russian Federation (further on referred to as referred to as antimonopoly legislation) is based on the Constitution of the Russian Federation, the Civil Code of the Russian Federation and consists of this Federal Law, other Federal Laws regulating relations stated in Article 3 of this Federal Law.

2. Relations stated in Article 3 of this Federal Law may be regulated by Regulations of the Russian Federation Government, statutory legal acts of the Federal Antimonopoly body in cases directly provided for in the antimonopoly legislation.

3. If an International Treaty of the Russian Federation establishes different rules than those provided for by this Federal Law, the rules provided for by the International Treaty of the Russian Federation are applied.

**Article 3. Sphere of Application of this Federal Law**

1. This Federal Law is applied to the relations which are connected with protection of competition, including prevention and restriction of monopolistic activity and unfair competition

and in which Russian legal persons and foreign legal persons, organizations, 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, physical persons, including individual entrepreneurs are involved.

**2. Provisions of this Federal Law are applicable to the agreements reached between Russian and (or) foreign persons or organizations outside the Russian Federation, as well as to actions performed by them, if such agreements or actions affect the state of competition in the Russian Federation.**

#### **Article 4. Basic Definitions Used in this Federal Law**

The following basic definitions are used in this Federal Law:

1) goods – are the objects of civil rights (including work, service, and financial service) intended for sale, exchange or trade in another form;

2) financial service – is a banking service, an insurance service, a service in the securities market, a leasing service, as well as a service provided by a financial organization and connected with attracting and allocating funds of legal and physical persons;

3) substitute goods – are goods that can be compared by their functional purpose, application, qualitative and technical characteristics, price and other parameters in such a manner that purchaser actually substitutes or is ready to substitute one commodity with another in the process of consumption (including consumption for production purposes);

4) goods market – is an area of circulation of a commodity (including commodity of foreign manufacture), which cannot be substituted by another commodity, or substitute goods (further on referred to as referred to as a certain commodity), within the frames of which (including geographical frames) basing on economic, technical or other possibility, or expediency the purchaser can obtain the commodity and this possibility or expediency is absent outside its frames;

**5) an economic entity – a commercial organization, a non-commercial organisation involved in an income-generating activity, an individual entrepreneur, another physical person that is not registered as an individual entrepreneur but is involved in a professional income-generating activity, in accordance with the federal laws on the basis of state registration and (or) a license as well as due to membership in a self-regulated organisation;**

6) financial organization – is an economic entity providing financial services: a credit institution, **microfinance organisation**, credit consumer cooperative, insurer, insurance broker, mutual insurance association, stock exchange, monetary exchange, pawnshop, leasing company, non-governmental pension fund, management company of investment fund, management company of unit investment fund, specialized depositary of investment fund, specialized depositary of unit investment fund, specialized depositary of non-governmental pension fund, professional Participant of the securities market;

7) competition – is a rivalry between economic entities during which the independent actions of each of them exclude or restrict the possibility for each of them to influence unilaterally on the general conditions of circulation of commodities in the relevant goods market;

8) discriminatory conditions – are conditions of access to a goods market, conditions of production, exchange, consumption, purchase, sale, another way of transfer of goods, when an economic entity or several economic entities are placed at a competitive disadvantage in comparison with another economic entity or the other economic entities;

9) unfair competition – is any actions of economic entities (groups of persons) aimed at getting benefits while exercising business activity, contradicting with the legislation of the Russian Federation, business traditions, requirements of respectability, rationality and equity and

which inflicted or can inflict losses to the other economic entities-competitors or harmed or can harm their business reputation;

10) monopolistic activity – is abuse by an economic entity, a group of persons of their dominant position, agreements or concerted practices prohibited by the antimonopoly legislation, as well as other actions (lack of action) recognized as monopolistic activity in accordance with the Federal Laws;

11) systematic implementation of monopolistic activity – is implementation of monopolistic activity by an economic entity exposed more than two times in three years in accordance with the procedure established by this Federal Law;

12) unjustifiably high price of a financial service, unjustifiably low price of a financial service – is the price of a financial service or financial services, which is established by a financial organization occupying a dominant position, and which differs considerably from the competitive price of a financial service and (or) impedes access to the goods market for the other financial organizations and (or) has negative impact on competition;

13) competitive price of a financial service – is the price for which a financial service can be provided in the conditions of competition;

**14) coordination of economic activity – coordination of actions of economic entities by a third person, that is not a member of the same group of persons with any of such economic entities and is not involved in activities on the market, where actions of economic entities are coordinated. Actions of economic entities exercised as part of “vertical” agreements do not constitute coordination of economic activities;**

15) antimonopoly body – is the federal antimonopoly body and its territorial offices;

16) acquisition of stocks (shares in the authorized capital) of business Partnerships – is purchase as well as gaining of another opportunity to exercise the voting rights given by the stocks of business Partnerships (shares in the authorized capital) on the basis of agreements on trust management, agreements on joint activity, contract of agency, other transactions, or on other grounds;

**17) signs of restricting competition – reduction in the number of economic entities, that are not members of the same group of persons, on a goods market, increasing or decreasing prices, which is not connected to the relevant changes in other general conditions of goods circulation on the market, a refusal of economic entities, which are not members of the same group of persons, to take independent actions on the goods market, defining general conditions of goods circulation on the goods market by an agreement between economic entities or in accordance with binding instructions from another person, or as a result of coordinating actions on a goods market by economic entities that are not members of the same group of persons, or other circumstances that create possibility for an economic entity or several economic entities to unilaterally affect the general conditions of goods circulation in the goods market, as well as setting requirements for the goods or economic entities, that are not provided for by the law of the Russian Federation, by the governmental authorities, local self-government bodies, organisations involved in providing public or municipal services when they take part in providing such services;**

18) agreement – is a written understanding contained in a document or several documents, as well as verbal understanding;

**19) a vertical agreement – an agreement between economic entities, one of which purchases the goods and the other provides (sells) the goods. An agency agreement does not constitute a “vertical” agreement;**

20) state or municipal preferences means granting advantages to economic entities by the federal executive bodies, the authorities of the constituent territories of the Russian Federation, local self-government bodies, other agencies or organizations exercising the functions of those bodies, which put them in more advantageous conditions for economic activity, by transferring state or municipal property, other objects of civil rights or by providing property allowances; **state or municipal guarantees;**

21) economic concentration – is transactions, other actions, which fulfillment influences on the condition of competition

**22) a person that is an object of economic concentration - a person, whose stocks (shares), assets, fixed production capital and (or) intangible assets are acquired or included in the authorized capital, and (or) a person, the rights towards whom are acquired according to the procedures established by Chapter 7 of this Federal Law.**

### **Article 5. Dominant Position**

1. Dominant position is recognized when position of an economic entity (a group of persons) or several economic entities (groups of persons) in the market of certain commodity giving such economic entity (a group of persons) or such economic entities (groups of persons) an opportunity to have a decisive impact on the general conditions of commodity circulation in the relevant goods market and (or) to remove other economic entities from this goods market and (or) to impede access to this goods market for the other economic entities. The position of an economic entity (except financial organizations) is recognized as dominant:

1) whose share in the certain goods market exceeds fifty per cent if only in the course of examination of the case of violation of the antimonopoly legislation or in the course of exercising state control over economic concentration it would be established that despite the excess of the aforementioned quantity position of the economic entity in the goods market is not dominant;

2) whose share in the certain goods market is less than fifty per cent in case the dominance of this economic entity was established by the antimonopoly body proceeding from stable or subjected to insignificant changes share of the economic entity in the market as compared to the shares of its competitors in this goods market, opportunities for access to this goods market of new competitors, or proceeding from other criteria characterizing goods market.

2. The position of an economic entity (except a financial organization) whose share in the certain goods market does not exceed thirty five per cent cannot be recognized as dominant, except the cases stated in Part 3 and 6 of this Article.

3. The position of each of several economic entities (except financial organizations) is recognized dominant if all of the conditions below apply to the entity:

1) the aggregate share of not more than three economic entities, share of each of these exceeds the shares of the other economic entities in this market, exceeds fifty per cent, or the aggregate share of not more than five economic entities, the share of each of these exceeds the shares of the other economic entities in the relevant goods market, exceeds seventy per cent (this provision is not applied if the share of at least one of the aforementioned economic entities is less than eight per cent);

2) during a long period (during not less than a year or in case this period is less than a year during the period of the relevant goods market existence) the relevant sizes of such economic entities' shares are stable or subjected to insignificant changes, as well as access of new competitors to the relevant goods market is impeded;

3) the commodity sold or purchased by economic entities cannot be substituted with another commodity in the process of consumption (including consumption for production purposes), growth of the commodity price does not condition corresponding to such growth reduction in demand for this commodity, information about the price, conditions of selling or purchasing of this commodity in the relevant goods market is available to indefinite group of persons.

4. An economic entity has the right to provide evidence before court or antimonopoly body that the position of this economic entity in the goods market cannot be recognized as dominant.

5. The position of an economic entity - subject of a natural monopoly in a goods market, which is in a state of natural monopoly, is recognized dominant.

6. The Federal Laws can establish cases of recognizing as dominant the position of an economic entity whose share in the market of a certain commodity is less than thirty five per cent.

6(1). Based on the finding of its analysis of the state of competition, an antimonopoly body can find that an economic entity has dominant position if its share of the goods market is less than 35% and exceeds the shares of other economic entities in the relevant goods market, but the economic entity can exercise decisive influence upon the overall conditions of goods circulation of the goods market, provided the following conditions are observed in total:

1) an economic entity can unilaterally determine the level of goods prices and exercise decisive influence upon overall conditions of good circulation on the relevant goods market;

2) the entry of new competitors to the relevant goods market is made difficult, in particular, due to economic, technological, administrative or other restrictions;

3) the goods sold or bought by the economic entity cannot be substituted by other goods in consumption (including consumption for industrial purposes);

4) changing prices of the goods does not cause an appropriate decrease of demand for the goods.»;

6(2). An antimonopoly body can find that an economic entity has dominant position on the grounds specified in Part 6<sup>1</sup> of this Article, if the antimonopoly body did not find that the economic entity has dominant position on the grounds specified in Parts 1, 3 and 6 of this Article.

7. The conditions for recognizing as dominant the position of a financial organization (excluding a credit organization) are established by the Government of the Russian Federation taking into consideration the restrictions provided for by this Federal Law. The conditions for recognizing as dominant the position of a credit organization are established by the Government of the Russian Federation in agreement with the Central Bank of the Russian Federation taking into consideration the restrictions provided for by this Federal Law. The conditions for recognizing as dominant the position of a financial organization (excluding a credit organization) are established by the antimonopoly body in accordance with the procedure approved by the Government of the Russian Federation. The procedure of establishing the dominant position of a credit organization is approved by the Government of the Russian Federation in agreement with the Central Bank of the Russian Federation. The position of an business Partnership, whose share in the goods market of the Russian Federation does not exceed ten per cent in the single in the Russian Federation goods market or does not exceed twenty per cent in the goods market when the commodity circulating this market circulates as well in the other goods markets of the Russian Federation, cannot be recognized as dominant.

8. Analysing the state of competition under Clause 3 Part 2 Article 23 of this Federal Law, the antimonopoly body shall assess the circumstances affecting the state of competition, in particular, the conditions of access to the goods market, the shares of economic entities on the market of particular goods, the ratio of shares of buyers and sellers of the goods, the period when there is a possibility to exercise decisive influence upon the general conditions of goods circulation on the goods market.

**9. The time-frame for analysing the state of competition is determined depending on the research purposes, specifics of the goods market and availability of information. The shortest period of analysing the state of competition for the purposes of establishing dominant position of an economic entity shall be one year or the period of existence of the goods market if less than one year.**

#### **Article 6. Monopolistically High Price of Goods**

1. Monopolistically high price of the goods is the price fixed by an economic entity with dominant position, if this price exceeds the sum of the necessary production and distribution

costs of the goods and profit, and exceeds the price formed under competitive conditions in the goods market, with comparable composition of goods buyers or sellers, conditions of goods circulation, market entry conditions, government regulation, including taxation and customs-and-tariffs regulation (further on referred to a comparable goods market), if such a market exists in the Russian Federation or abroad, including the price fixed:

1) by increasing an earlier fixed price of the goods, provided the following conditions are met in their totality:

a) expenses necessary for producing and distributing the goods have remained the same or their change does not match the price change;

b) the composition of goods buyers or sellers remains unchanged or changes were insignificant;

c) conditions of the goods circulation on the goods market, including those caused by government regulation, including taxation and tariff regulation, have remained the same or their changes are disproportionate to the price change;

2) by maintaining or not decreasing earlier fixed prices, provided the following conditions are met in their totality:

a) expenses necessary for producing and distributing the goods decreased considerably;

b) the composition of goods buyers or sellers brings about a possibility to reduce the price of the goods;

c) conditions of the goods circulation on the goods market, including those caused by government regulation, including taxation and tariff regulation, bring about a possibility to reduce the price of the goods.

2. If the conditions specified in Part 1 Article 13 of this Law are met, monopolistically high price shall not be recognized if the goods are the result of innovative activities: activities resulted in creating new goods that do not have substitutes, or new goods that have substitutes but productions costs are decreased and (or) the goods quality is improved.

3. The goods price is not monopolistically high if it is fixed by a natural monopoly within the rates for such goods determined in accordance with the legislation of the Russian Federation.

4. Monopolistically high price shall not be recognized if it does not exceed the price formed under competitive conditions in a comparable goods market.

**5. Monopolistically high price shall not be recognized if fixed at the exchange, simultaneously complying with the following conditions:**

**1) the quantity of goods sold through the exchange, produced and (or) sold by an economic entity that has dominant position on the relevant goods market, shall be no less than the quantity set by the federal antimonopoly body and the federal executive body that regulates the field of activities, to which production of the relevant goods belongs;**

**2) deals are concluded by an economic entity, that has dominant position on the relevant goods market, in course of exchange trading, which meets the requirements determined by the federal antimonopoly body and the federal executive body that regulates the field of activities, to which production of the relevant goods belongs, in particular, the requirements for the minimum number of participants of exchange trading within a trading session;**

**3) an economic entity that has dominant position on the relevant goods market, accredited and (or) taking part in bidding (particularly, by filing the bids to a broker, brokers), shall submit a list of affiliated persons to the exchange according to the procedures specified by the federal antimonopoly body;**

**4) actions of an economic entity that has dominant position on the relevant goods market, and (or) its affiliated persons are not market manipulations;**

**5) an economic entity that has dominant position on the relevant goods market shall sell goods at the exchange regularly, with even distribution of the quantity of goods for trading sessions within a calendar month. The Government of the Russian Federation has**



the right to determine the criteria of regularity and evenness of selling goods at the exchange for certain goods markets;

6) an economic entity that has dominant position on the relevant goods market shall register off-exchange transactions for supplying goods, circulated on this goods market, in the cases and according to the procedures specified by the Government of the Russian Federation;

7) the minimum size of an exchange lot does not prevent entry to the relevant goods market;

8) an economic entity, that has dominant position on the relevant goods market, sells goods at an exchange that meets the requirements of the law of the Russian Federation on organised trading, including the requirements for confidentiality of information about the persons that filed the bids, particularly, by filing the bids to a broker, brokers.

6. Monopolistically high price shall not be recognized if it is set taking into consideration the specifics of developing a reserved price for the products that are sold through the exchange, approved by the antimonopoly body.

7. Monopolistically high price shall not be recognized if it does not exceed the price set at the exchange in compliance with Parts 5 and 6 of this Article, and whereupon economic (commercial) terms of a transaction are comparable on the quantity and (or) the volume of supplied goods, the deadline for honoring the obligations, payments conditions, typically applied to such kind of transactions, as well as other reasonable conditions that can affect the price.

8. Recognising monopolistically high price of the goods under Part 1 of this Article, exchange and off-exchange price indicators on the global markets of similar goods shall be taken into consideration.

#### **Article 7. Monopolistically Low Price of Goods**

1. Monopolistically low price of the goods is the price fixed by an economic entity with dominant position, if this price is below the sum of the necessary production and distribution costs of the goods and profit, and is below the price formed under competitive conditions in the goods market, with comparable composition of goods buyers or sellers, conditions of goods circulation, market entry conditions, government regulation, including taxation and customs-and-tariffs regulation, if such a market exists in the Russian Federation or abroad, including the price fixed:

1) by reducing an earlier fixed price of the goods, provided the following conditions are met in their totality:

a) expenses necessary for producing and distributing the goods have remained the same or their change does not match the price change;

b) the composition of goods buyers or sellers remains unchanged or changes were insignificant;

c) conditions of the goods circulation on the goods market, including those caused by government regulation, including taxation and tariff regulation, have remained the same or their changes are disproportionate to the price change;

2) by maintaining or not increasing earlier fixed prices, provided the following conditions are met in their totality:

a) expenses necessary for producing and distributing the goods increased considerably;

b) the composition of goods buyers or sellers brings about a possibility to increase the price of the goods;

c) conditions of the goods circulation on the goods market, including those caused by government regulation, including taxation and tariff regulation, bring about a possibility to increase the goods price.

2. Monopolistically low price shall not be recognized if:

- 1) is fixed by a natural monopoly within the rates for such goods, determined in accordance with the legislation of the Russian Federation;
- 2) it is not below the price formed under competitive conditions in the comparable goods market;
- 3) price fixing by the goods seller has not resulted or could not have resulted in restricting competition due to fewer economic entities, not members of the same group of persons with the goods buyers or sellers, operating in the comparable goods market.

#### **Article 8. Concerted Actions of Economic Entities**

**1. Concerted actions of economic entities are actions of economic entities on a goods market that are exercised in the absence of an agreement and meet the totality of the following conditions:**

- 1) the outcome of such actions meets the interests of each of the above economic entities;
- 2) actions are known in advance to each of participating economic entities due to a public statement made by one of them about exercising such actions;
- 3) actions of each of the above economic entities are caused by actions of other economic entities, participating in concerted actions, and are not due to the circumstances equally affecting all economic entities on the relevant goods market. Such circumstances, in particular, can be changing regulated tariffs, changing prices for the raw materials used to produce goods, changing prices for the goods on the global goods markets, considerable changing of the demand for the goods within no less than one year or within the period of existence of the relevant market if less than one year.

**2. Exercising actions towards reaching an agreement by the persons specified in Part 1 of this Article is considered an agreement but not concerted actions.**

#### **Article 9. A Group of Persons**

**1. A group of persons is a totality of physical persons and (or) legal entities that meet one or several characteristics out of the following ones:**

- 1) a business entity (partnership, economic partnership) and a physical person or a legal entity if such physical person or a legal entity has, due to participation in the business entity (partnership, economic partnership) or in accordance with the authority obtained, in particular, on the basis of a written agreement, from other persons, over 50% of the total number of votes falling within voting stocks (shares) of the charter (pooled) capital of the business entity (partnership, economic partnership);
- 2) a business entity (partnership, economic partnership) and physical person or a legal entity if such physical person or a legal entity exercises the functions of a sole executive body of the business entity (partnership, economic partnership);
- 3) a business entity (partnership, economic partnership) and physical person or a legal entity if such physical person or a legal entity can give binding instructions to the business entity (partnership, economic partnership) on the basis of the charter documents of the business entity (partnership, economic partnership) or a contract concluded with the business entity (partnership, economic partnership);
- 4) a business entity (partnership, economic partnership), where the same physical persons form over 50% of the size of a collective executive body and (or) the Board of Directors (Supervisory Board, Board of a Fund);
- 5) a business entity (economic partnership) and a physical person or a legal entity, if the sole executive body of the business entity (economic partnership) is appointed or elected at the suggestion of the physical person or the legal entity;
- 6) a business entity and a physical person or a legal entity, if over 50% of the size of the collective executive body or the Board of Directors (Supervisory Board) of the business entity are elected at the suggestion of the physical person or the legal entity;

7) a physical person, his / her spouse, parents (including adoptive parents), children (including adopted ones), blood or non-blood brothers and sisters;

8) persons, each of whom are in a group with the same person under any of the characteristics specified in Clauses 1 - 7 of this Part, as well as other persons that are in a group with any of such persons under any of the characteristics specified in Clauses 1 - 7 of this Part;

9) a business entity (partnership, economic partnership), physical persons or legal persons, that are in a group of persons under any of the characteristics specified in Clauses 1 - 8 of this Part, if such persons due to their joint participation in the business entity (partnership, economic partnership) or in accordance with the authority received from other persons, have over 50% of total number of votes falling within voting stocks (shares) of the charter (pooled) capital of the business entity (partnership, economic partnership).

2. Prohibitions of actions (omissions) of an economic entity on a goods market established by the antimonopoly authority apply to actions (omissions) of a group of persons, unless otherwise established by the federal law.

## **Chapter 2. Monopolistic Activity. Unfair Competition**

### **Article 10. Prohibition of Abuse of Dominant Position by an Economic Entity**

1. Actions (lack of action) of an economic entity occupying a dominant position, which result or can result in prevention, restriction or elimination of competition and (or) infringement of the interests of other persons are prohibited, including the following actions (lack of action):

1) establishment and maintaining of monopolistically high or monopolistically low price for a commodity;

2) withdrawal of goods from circulation, if the result of such withdrawal is increase of price of the commodity;

3) imposing contractual terms upon a counteragent which are unprofitable for the latter or not connected with the subject of agreement (economically or technologically unjustified and (or) not provided for directly by the Federal Laws, statutory legal acts of the President of the Russian Federation, statutory legal acts of the Government of the Russian Federation, statutory legal acts of the authorized federal executive authorities or judicial acts, requirements for transferring financial assets, other property, including property rights, as well as consent to conclude a contract on conditions of including in it provisions, concerning the goods in which the counteragent is not interested and other requirements);

4) economically or technologically unjustified reduction or cutting off the production of goods if there is demand for the goods or orders for their delivery are placed and there is possibility of its profitable production, as well as if such reduction or cutting off the production of goods are not provided for directly by the Federal Laws, statutory legal acts of the President of the Russian Federation, statutory legal acts of the Government of the Russian Federation, statutory legal acts of the authorized federal executive authorities or judicial acts;

5) economically or technologically unjustified refusal or evasion from concluding a contract with individual purchasers (customers) in the case when there are possibilities for production or delivery of the relevant goods as well as if such a refusal or evasion is not provided for directly by the Federal Laws, statutory legal acts of the President of the Russian Federation, the Government of the Russian Federation, authorized federal executive authorities or judicial acts;

6) economically, technologically or otherwise unjustified establishment of different prices (tariffs) for the same goods if not established otherwise by the law;

7) establishment of unjustifiably high or unjustifiably low price of a financial service by a financial organization;

8) creation of discriminatory conditions;

9) creation of barriers to entry into the goods market or leaving from the goods market for the other economic entities;

10) violation of the procedure of pricing established by statutory legal acts.

**11) manipulating prices on wholesale and (or) retail markets of electric power (capacity).**

2. An economic entity has the right to provide evidence that its actions (lack of action) stated in Part 1 of this Article (except actions indicated in Clauses 1, 2, 3, 5, 6, 7 and 10 of Part 1 of this Article) can be recognized as eligible in accordance with the requirements of Part 1 of Article 13 of this Federal Law.

**3. To prevent discriminatory conditions, a federal law or a normative legal act of the Government of the Russian Federation can establish the rules of non-discriminatory access to the goods markets and (or) the goods produced or sold by holders of natural monopolies, whose activities are regulated in accordance with No.147-FZ Federal Law “On Natural Monopolies” of 17<sup>th</sup> August 1995, as well as infrastructure facilities used by these holders of natural monopolies directly for providing services in the field of activities of natural monopolies. The rules must contain:**

**1) a list of goods, infrastructure facilities, to which a non-discriminatory access shall be provided;**

2) information enabling market participants to compare the conditions of goods circulation on the goods market and (or) conditions for entry to the goods market, as well as other essential information necessary for market access and (or) circulating goods in the goods market;

3) the procedures for disclosing information, specified in Clause 2 of this Part, including information about the goods produced or sold by the economic entities listed in the first paragraph of this Part, the cost of those goods, and the fee for market access, possible scope of production or distribution of the goods, and technical and technological possibilities for providing the goods;

4) the procedures for compensating economically reasonable expenses of economic entities, listed in the first paragraph of this Part, for production and (or) distribution of the relevant goods and (or) organization of market access;

5) the conditions for organizing tender procedures for access to the goods market, where the economic entities listed in the first paragraph of this Part operate, subject to economic, technological or other possibilities, if other market access procedures are not provided for by the legislation of the Russian Federation;

6) the essential contract conditions and (or) standard contracts for providing access to the goods market and (or) to the goods of the economic entities listed in the first paragraph of this Part;

7) the procedures for determining consumers that will receive mandatory servicing, establishing the minimum level of service provision and the sequence of providing access to the goods market and (or) to the goods, if it is impossible to fully satisfy the needs for the goods produced and (or) distributed by the economic entities listed in the first paragraph of this Part, taking into account protection of citizens' rights and legitimate interests, state security, protection of the environment and cultural values;

**8) the conditions for access to the goods market, and (or) the goods and (or) infrastructure facilities of economic entities, specified in paragraph 1 of this Part, and in the established cases – requirements to exercise technological and (or) technical arrangements / measures, particularly, for technological connection;**

9) the requirements to the relevant goods, if not provided otherwise by the legislation of the Russian Federation.

4. Requirements of this Article are not extended over the actions on implementation of exclusive rights for the results of intellectual activity and equalized to them means of individualization of a legal person, means of individualization of production, executed works or rendered services.

**Article 11. Prohibition on Competition-Restricting Agreements between Economic Entities**

1. Agreements between competing economic entities – that is economic entities that sell goods on the same market, shall be recognised as cartels and shall be prohibited if such agreements lead or can lead to:

- 1) fixing or maintaining prices (tariffs), discounts, markups (surcharges) and (or) additions to prices;
- 2) increasing, reducing or maintaining prices in course of competitive bidding;
- 3) dividing the goods market according to a geographic principle, quantity of sales or purchases of the goods, the mix of goods or a composition of buyers or sellers (customers);
- 4) reducing or terminating production of the goods;
- 5) refusing to conclude contracts with particular sellers or buyers (customers).

2. “Vertical” agreements between economic entities are prohibited (except “vertical” agreements that are allowed under Article 12 of this Federal Law), if:

- 1) such agreements lead or can lead to fixing reselling prices of the goods, except if the seller fixes the maximum reselling price of the goods for a buyer;
- 2) such agreements obligate buyers not to sell the goods of an economic entity that is a competitor of the seller. This prohibition does not apply to the agreements about organising sales of the goods by a buyer under a trade mark or other means of individualization of the buyer or the producer.

3. Agreements between economic entities – participants of wholesale and (or) retail markets of electric power (capacity), commercial infrastructure organisations, technological infrastructure organisations, network organisations - are prohibited, if such agreements lead to price manipulation on the wholesale and (or) retail markets of electric power (capacity).

4. Other agreements between economic entities are prohibited (except “vertical” agreements that are allowed under Article 12 of this Federal Law), if it is established that such agreements lead or can lead to restricting competition. Such agreements can include, in particular, agreements about:

- 1) imposing disadvantageous contract conditions upon a counteragent or irrelevant to the contract subject (unreasonable requirements to transfer financial funds, other property, particularly, property rights, as well as consent to conclude a contract subject to including provisions in the contract regarding goods, in which the counteragent is not interested, and other requirements);
- 2) an economic entity fixing different prices (tariffs) for the same goods without economic, technological and other justifications;
- 3) preventing entry / exit of other economic entities to / from the goods market;
- 4) fixing terms and conditions for membership (participation) in professional and other associations.

5. Physical persons, commercial and non-commercial organisations are prohibited to coordinate economic activities of economic entities, if such coordination leads to any of the consequences specified in Parts 1-3 of this Article, that cannot be allowed under Articles 12 and 13 of this Federal Law or that are not provided for by the federal laws.

6. An economic entity can provide evidence that concluded agreements, provided for by Parts 2 – 4 of this Article, can be allowed under Article 12 or Part 1 Article 13 of this Federal Law.

7. The provisions of this Article do not apply to agreements between economic entities of the same group of persons, if one of such economic entities has established

control with regard to another economic entity, or if such economic entities are under control of a single person, except the agreements between economic entities that are involved in the types of activities, simultaneous exercising of which is not allowed under the law of the Russian Federation.

8. In this Article, Articles 11<sup>1</sup> and 32 of this Federal Law, control means possibility of a physical person or a legal entity to directly or indirectly (through a legal entity or several legal entities) determine decisions made by another legal entity, through one or several following actions:

- 1) managing over 50% of the total number of votes falling on the voting stocks (shares) of the charter (pooled) capital of a legal entity;
- 2) exercising the functions of an executive body of a legal entity.

9. This Article does not apply to the agreements about providing and (or) alienating the right of using the results of intellectual activity or the means of individualization of a legal entity, the means of individualization of products, works or services.

#### **Article 11(1). Prohibition on Competition-Restricting Concerted Actions of Economic Entities**

1. Concerted actions of competing economic entities shall be prohibited if such concerted actions lead to:

- 1) fixing or maintaining prices (tariffs), discounts, markups (surcharges) and (or) additions to prices;
- 2) increasing, reducing or maintaining prices in course of competitive bidding;
- 3) dividing the goods market according to a geographic principle, quantity of sales or purchases of the goods, the mix of goods or a composition of buyers or sellers (customers);
- 4) reducing or terminating production of the goods;
- 5) refusing to conclude contracts with particular sellers or buyers (customers), if such a refusal is not directly provided for by the federal laws.

2. Concerted actions between economic entities – participants of wholesale and (or) retail markets of electric power (capacity), commercial infrastructure organisations, technological infrastructure organisations, network organisations - are prohibited, if such concerted actions lead to price manipulation on the wholesale and (or) retail markets of electric power (capacity).

3. Other concerted actions, that are not specified in Parts 1 and 2 of this Article, of competing economic entities are prohibited, if it is established that such concerted actions lead to restricting competition. Such concerted actions can include, in particular, actions towards:

- 1) imposing disadvantageous contract conditions upon a counteragent or irrelevant to the contract subject (unreasonable requirements to transfer financial funds, other property, particularly, property rights, as well as consent to conclude a contract subject to including provisions in the contract regarding goods, in which the counteragent is not interested, and other requirements);
- 2) an economic entity fixing different prices (tariffs) for the same goods without economic, technological and other justifications;
- 3) preventing entry / exit of other economic entities to / from the goods market.

4. An economic entity can submit evidence that the exercised concerted actions, specified in Parts 1 – 3 of this Article, can be allowed under Part 1 Article 13 of this Federal Law.

5. The prohibitions specified in this Article do not apply to concerted actions of economic entities, whose combined share on the goods market does not exceed 20% and herein the share of each of them on the goods market does not exceed 8%.

**6. This Article does not apply to concerted actions of economic entities – members of the same group of persons, if one of such economic entities has established control with regard to another economic entity or if such economic entities are under control of a third person.**

#### **Article 12. Permissibility of “Vertical” Agreements**

1. “Vertical” agreements in written form (except “vertical” agreements between financial organizations) are permitted if these agreements are agreements of commercial concession.

2. “Vertical” agreements between economic entities (except “vertical” agreements between financial organizations) are permitted if the share of each economic entity in any goods market does not exceed twenty percent.

#### **Article 13. Permissibility of Actions (lack of action), Agreements, Concerted Practices, Transactions, Other Actions**

1. Actions (lack of action) of economic entities provided for in Part 1 of Article 10 of this Federal Law (except actions (lack of action) stated in Clauses 1 (except fixing or maintaining price of the goods, which are the results of innovative activities), 2, 3, 5, 6, 7 and 10 of Part 1 of Article 10 of this Federal Law), agreements and concerted **actions provided for in Parts 2 -4 Article 11, Article 11(1)** deals, other actions provided for in Articles 27-30 of this Federal Law can be recognized as permissible if such actions (lack of action), agreements and concerted practices, transactions, other actions do not create for particular persons opportunity to eliminate competition in the relevant goods market, do not impose restrictions superfluous for achievement of the goal of these actions (lack of action), agreements and concerted practices, transactions, other actions on the participants or third persons and also if they result or can result in:

1) perfection of production, sale of goods or stimulation of technical, economic progress or rising competitive capacity of the Russian goods in the world market

2) obtaining by consumers of benefits (advantages) which are proportionate to the benefits (advantages) obtained by the economic entities in the result of actions (lack of action), agreements and concerted practices, transactions, other actions.

**1(1). Agreements of economic entities about joint activities that can lead to the consequences specified in Part 1 Article 11 of this Federal Law, can be allowed, if such agreements do not create possibility for certain persons to eliminate competition on the relevant goods market, do not impose restrictions upon third parties, and in general can be:**

**1) Improving production, sales of goods, or stimulating technical, economic progress, or participants’ making direct investments in the Russian Federation (particularly, introducing new production capacities, modernising the current production capacities);**

**2) Buyers obtaining advantages (benefits) comparable with advantages (benefits), proportionate to the advantages (benefits) obtained by economic entities as a result of actions (omissions), agreements and concerted actions, transactions.**

2. The Government of the Russian Federation has the right to determine the cases of permissibility of agreements and concerted practices meeting the conditions stated in Clauses 1 and 2 of Part 1 of this Article (general exemptions). General exemptions, concerning agreements and concerted practices indicated in **Parts 2 - 5 Article 11** of this Federal Law, are defined by the Government of the Russian Federation on proposal of the federal antimonopoly body, are introduced for a specific period of time and provide for:

1) type of agreement or concerted practice;

2) conditions which cannot be considered as permissible in regard to such agreements or

concerted practices;

3) obligatory conditions for ensuring competition which should be contained in such agreements;

4) obligatory conditions under which such concerted practices are permissible.

3. General exemptions can provide, alongside with the conditions indicated in Part 2 of this Article, and for other conditions, that agreements and concerted practices should meet.

#### **Article 14. Prohibition of Unfair Competition**

1. Unfair competition is not permitted, including:

1) dissemination of false, inaccurate, or distorted information, which can inflict losses on economic entity or cause damage to its business reputation;

2) misrepresentation concerning the nature, method, and place of manufacture, consumer characteristics, quality and quantity of a commodity or concerning its producers;

3) incorrect comparison of the products by an economic entity, manufactured or sold by it, with the products manufactured or sold by other economic entities;

4) sale, exchange or other way of input of a commodity into circulation if there was illegal use of the results of intellectual activity and equalized to them means of individualization of a legal person, means of individualization of production, works, services;

5) illegal receipt, use, and disclosure of information constituting commercial, official or other protected by law secret.

2. Unfair competition, related to acquisition and use of exclusive rights for the means of individualization of a legal person, means of individualization of production, works, and services is not permitted.

3. Decision of the Federal Antimonopoly body concerning violation of the provisions of Part 2 of this Article concerning acquisition and use of exclusive rights to a trademark is sent by an interested Party to the federal executive authority for intellectual property for recognizing invalid the legal protection granted to this trademark.

### **Chapter 3. Prohibition of Acts, Actions (Inactions), Agreements, Concerted Practices 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, Organisations Involved in Providing Public or Municipal Services as well as Public Extra-budgetary Funds, the Central Bank of the Russian Federation that Restrict Competition**

#### **Article 15. 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, Organisations Involved in Providing Public or Municipal Services as well as Public Extra-budgetary Funds, the Central Bank of the Russian Federation that Restrict Competition**

1. It is forbidden for the 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, **organisations involved in providing public or municipal services** as well as public extra-budgetary funds, the Central Bank of the Russian Federation to pass acts and (or) exercise actions (lack of action) which lead or can lead to prevention, restriction, elimination of competition, except the cases of passing acts or exercising of actions (lack of action) provided for by the Federal Laws, in particular, the following is forbidden:



1) introduction of restrictions concerning creation of economic entities in any sphere of activity as well as imposition of bans or introduction of restrictions concerning exercising specific activities or production of certain types of products;

2) unreasonably preventing activities of economic entities, in particular, by establishing requirements to goods or economic entities that are not provided for by the legislation of the Russian Federation;

3) imposition of bans or introduction of restrictions concerning free movement of products on the territory of the Russian Federation, other restrictions of the rights of economic entities for sale, purchase, other acquisition, exchange of commodities;

4) issuing requests to economic entities on priority supply of products for a certain category of purchases (customers) or on conclusion of contracts in priority order;

5) imposing restrictions for purchasers of products on the choice of economic entities which provide such products.

6) proving priority access to information for an economic entity

**7) granting state or municipal preferences in breach of Chapter 5 of this Federal Law;**

**8) creating discriminatory conditions;**

**9) fixing and (or) charging payments not provided for by the law of the Russian Federation for rendering public or municipal services as well as services that are necessary and mandatory for rendering public or municipal services;**

**10) giving instructions to economic entities about acquiring the goods, except cases provided for by the law of the Russian Federation.**

2. It is forbidden to vest the authorities of the constituent territories of the Russian Federation, local self-government bodies with powers execution of which lead or can lead to prevention, restriction or elimination of competition, except cases provided for by Federal Laws.

3. It is forbidden to combine functions of the federal executive authorities, the authorities of the constituent territories of the Russian Federation of the Russian Federation, other authorities and local self-government bodies, and functions of economic entities, except the cases provided for by Federal Laws, Decrees of the President of the Russian Federation, Regulations of the Government of the Russian Federation, as well as granting economic entities with functions and rights of the above-mentioned bodies, including the functions and the rights of the bodies of state control and supervision.

**Article 16. 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**

Agreements between federal executive authorities, public 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 or between them and economic entities or execution of concerted practices by these bodies and organizations are forbidden if such agreements or such execution of concerted practices lead or can lead to prevention, restriction or elimination of competition, in Particular, to:

1) increase, decrease or maintaining of prices (tariffs) except the cases when such agreements are provided for by Federal Laws or statutory legal acts of the President of the Russian Federation, statutory legal acts of the Government of the Russian Federation;

2) economically, technologically or in any other way unjustified establishment of different prices (tariffs) for the same commodity;

3) division of the goods market according to the territorial principle, volume of sale or purchase of commodities, range of sold products or composition of sellers or purchasers (customers);

4) restriction of entry into a goods market (exit from a goods market) or removal of economic entities from it.

#### **Chapter 4. Antimonopoly Requirements to Tenders and Peculiarities of Selection of Financial Organizations**

##### **Article 17. Antimonopoly Requirements for Tenders, Requests for Price Quotations for the Goods**

1. The actions that lead can lead to prevention, restriction or elimination of competition in the course of tender, **requests for price quotations for the goods (further on referred to as a request for quotations)** are prohibited, including:

1) coordination of activities of the participants of tenders, **quotation requests** by the tenders' organizers or customers;

2) creation of preferential conditions for participation in the tender, a **request for quotations** to one or several Participants, including by means of access to information, unless is determined otherwise by the Federal Law;

3) violation of the order of procedure of estimation of a winner or winners of the tender, **request for quotations**;

4) participation of the organisers of a tender, a **request for quotations** and (or) of members of staff of the tender organisers or customers in the tender, the **request for quotations**.

2. Alongside with the established by Part 1 of this Article prohibitions concerning tender, **request for quotations** procedures, if the tender's organizers or the tender's customers are federal executive authorities, executive authorities of the subjects of the Russian Federation, bodies of local self-government, public extra-budgetary funds, as well as during tenders' procedure on placement of orders for goods, works and services for state and municipal needs it is forbidden to restrict access to participation in tenders, **requests for quotations** which is not provided for by the Federal Laws or other statutory legal acts.

3. Alongside with the established by Part 1 and 2 of this Article prohibitions concerning tenders, **request for quotations** procedures on placement of orders for goods, works and services for state and municipal needs it is forbidden to restrict competition by means of including in the tenders' lots structure of production (goods, works, services) which technologically and functionally are not connected with goods, works, services which provision, execution, rendering are the subject of the tender, **request for quotations**.

4. Violation of the rules established by this Article is a ground for the court to admit invalid the relevant tender, **request for quotations** and the transactions concluded in the result of such tender, **request for quotations**, including at the suit of the antimonopoly body.

Article 17(1). Specific procedures for agreements regarding state and municipal property

1. Lease contracts, gratuitous use agreements, trust management contracts, other contracts for transfer of possession and (or) use of state and municipal property, not registered on the basis of economic control rights or operative management, can be concluded only upon the outcome of tenders of auctions for the right to conclude such agreements, except when the above rights for such property are granted:

1) on the basis of international treaties with the Russian Federation (including inter-governmental agreements), the Federal Laws, establishing other procedures for managing the property, the Decrees of the President of the Russian Federation, Decrees of the Government of the Russian Federation, judicial rulings, that came into force;

- 2) to the authorities, local self-government bodies and state extra-budgetary funds and the Central Bank of the Russian Federation;
- 3) to state and municipal agencies, state-run corporations, state-run companies;
- 4) to non-profit organizations formed as associations and unions, religious and voluntary organizations (associations), including political parties, voluntary movements, public foundations, community agencies, bodies of communal self-activity, trade unions, their unions (associations), primary trade union organizations, associations of employers, home owners associations;
- 5) bar, notary and commerce-and-industry chambers;
- 6) educational institutions regardless of their business legal structures, including state and municipal educational institutions listed in Clause 3 of this Part and medical institutions in the private health care system;
- 7) for placing **communications networks**, postal facilities;
- 8) to a person who has the rights of ownership and (or) use of an engineering support network, if the transferred property is part of the relevant engineering support network and if those part of the network and the network are technologically connected in accordance with the laws on urban development activities;
- 9) according to the procedures established by Chapter 5 of this Federal Law;
- 10) to a person who has a state or a municipal contract following the outcome of a tender or an auction, organized in accordance with No.94-FZ Federal Law "On State and Municipal procurement of Goods, Works and Services" of 21<sup>st</sup> July 2005, if those rights were provided for by the tender or auction documentation for the purposes of executing the state or municipal contract. The rights for such property cannot be granted for a period exceeding the period of executing the state or municipal contract;
- 11) for no more than thirty calendar days within six consecutive calendar months (the rights for such property cannot be granted to a single person for the total period more than thirty calendar days within six consecutive calendar months without a tender or an auction);
- 12) instead of the real estate, the rights to which are terminated due to demolition or reconstruction of the buildings, structures, or installations, which, or part of which constitutes such real estate, or due to granting the rights for such real estate to state or municipal educational institutions or medical institutions. The real estate, to which the rights are granted, must be equal to the previous real estate in terms of its location, space and value, determined in accordance with the laws of the Russian Federation regulating assessment activities. The conditions under which real estate is recognized equal to the previous real estate are determined by the federal antimonopoly body;
- 13) to the legal successor of a privatized unitary enterprise, if such property is not included in the assets of the privatized unitary enterprise that are subject to privatization, but is functionally and technologically connected to the privatized property and the Federal Laws classify it as objects of civil rights, circulation of which is prohibited, or the facilities that can only be in state or municipal property.
- 14) constitute an element or elements of premises, a building, a construction or a construct, if the overall area of the transferred property is no more than 20 sq.m. and does not exceed 10% of the area of the premises, building, construction or construct, the rights for which belong to the person that is transferring the property;**
- 15) a person that files the only tender bid or the only auction bid, if the bid meets the requirements and terms and conditions specified in the tender documentation or the auction documentation, as well as a person that is recognised the only tender bidder or the only auction bidder, under the terms conditions and at the price, specified in the tender bid or the auction bid or the tender documentation or the auction documentation, but not at a price below the original (minimum) contract (lot) price, specified in the tender notice or the auction notice. Hereupon, in these cases concluding the contracts provided for by this Part is mandatory for the organisers of competitive bidding;**

**16) subleased or transferred for gratis use by a person, to whom the rights of possession and (or) use of public or municipal property were granted upon the outcome of competitive bidding if such competitive bidding was declared void, or if the above rights were granted on the basis of a public or a municipal contract or on the basis of Clause 1 of this Part.**

2. The agreement procedures, listed in Part 1 of this Article, are not applicable to the property, managed in accordance with the Land Code of the Russian Federation, the Water Code of the Russian Federation, the Forestry Code of the Russian Federation, the laws of the Russian Federation on mineral resources, and the laws of the Russian Federation on concessionary contracts.

3. Lease contracts, gratuitous use agreements, other contracts for transfer of possession and (or) use of state and municipal property, in relation to:

1) state or municipal real estate, owned on the basis of economic control rights or operative management of state or municipal unitary enterprises;

2) state or municipal real estate, registered for state or municipal autonomous agencies on the basis of operative management;

3) state or municipal property, owned on the basis of operative management of state or municipal budgetary and state-run institutions, **and public authorities and local self-government bodies**

are concluded according to the procedures specified in Part 1 of this Article.

4. A person who, under Parts 1 and 3 of this Article, is granted the rights of possession and (or) use of a building, structure or installation, can transfer such rights for a part of parts of a building, structure, or installation to the third persons upon the owner's consent without tenders or auctions. The overall space of a part or parts of a building, structure or installation, transferred for possession and (or) use by the third persons, cannot exceed 10% of the space of the buildings, structures, or installations, the rights for which are granted *npaba* under Parts 1 and 3 of this Article, and be more than twenty square meters.

5. The procedures for tenders or auctions for the right to enter into the agreements specified in Parts 1 and 3 of this Article, and the list of the types of property, the agreements for which can be concluded through competitive bidding, shall be established by the federal antimonopoly body.

**5(1). Under Part 6 of this Article, a tender notice shall be placed no less that 30 days before the deadline for filing tender bids, an auction notice shall be placed no less than 20 days before the deadline for filing auction bids.**

6. From 1<sup>st</sup> January 2011, information about tenders or auctions for the right to enter into the agreements specified in Parts 1 and 3 of this Article, shall be published at the official Internet site of the Russian Federation determined by the Government of the Russian Federation for publishing information about tenders (**further on referred to as the official competitive bidding web-site**).

**7. Contracts specified in Parts 1 and 3 of this Article cannot be concluded earlier than ten days after the information about the tender or auction results was placed on the official web-site of competitive bidding.**

**8. Concluding and (or) executing the contracts specified in Parts 1 and 3 of this Article, the contract price can be increased upon an agreement between the parties in accordance with the procedures established by the contract.**

**9. Upon expiry of the lease contract, specified in Parts 1 and 3 of this Article, a contract for a new period with the lessee, that duly fulfilled one's obligations, shall be concluded without organising a tender, an auction, unless provided otherwise by the contract and the contract period is limited by the law of the Russian Federation, subject to simultaneously meeting the following conditions:**

1) the size of the lease payment is determined upon the results of appraisal of the market value of the facilities, carried out in accordance with the law regulating appraisal

practice in the Russian Federation, unless otherwise provided for by other laws of the Russian Federation;

2) the minimum period for which the lease contract is renegotiated, should be no less than three years. This period can only be reduced on the basis of a lessee's statement.

10. A lessor cannot refuse a lessee to renegotiate the lease contract for a new period in accord with the procedures and under the terms and conditions specified in Part 9 of this Article, except the following cases:

1) making a decision in accordance with the established procedures that provides for a different order of managing such property;

2) lessee's indebtedness for the lease payments for such property, accrued forfeit (penalties, penalty interest) in the size exceeding the size of the lease payment for more than one payment period, specified in the lease contract.

11. If lessor refuses to renegotiate a lease contracts, specified in Part 1 and 3 of this Article, for a new period, upon the grounds that are not provided for by Part 10 of this Article, and concludes within a year, upon the expiry of the period of the lease contract, a lease contract with another person, the lessee that duly fulfilled one's obligations under the lease contract, can request to transfer to oneself the rights and obligations under the concluded contract and compensate losses incurred by the refusal to renew the lease contract, in accordance with the civil law.

#### **Article 18. Specifics of Concluding Contracts with Financial Organisations**

1. Federal executive bodies, executive bodies of the constituent territories of the Russian Federation, local self-government bodies, state extra-budgetary funds shall conclude contracts with financial organisations regardless of the sum of transaction only upon the outcome of an open tender or an open auction, organised in accordance with the federal law on state and municipal procurement of goods, works and services, for rendering the following financial services:

1) attracting deposits of monetary resources;

2) opening and keeping bank accounts, payments settlements on these bank accounts;

3) services for keeping the register of securities' owners;

4) securities trust management;

5) non-state pension provision.

2. Organising an open tender or an open auction in accordance with this Article, a federal executive body, an executive body of a constituent territory of the Russian Federation, a local self-government body, a state extra-budgetary fund can establish requirements aimed at valuating financial soundness and solvency of a financial firm, except the requirements for availability of:

1) a certain size of the charter capital, firm's own funds, assets, as well as meeting other characteristics of a financial organisations and (or) its activities in absolute indices, unless the requirement to comply with such characteristics is established by the law of the Russian Federation;

2) the rating assigned by Russian or international rating agencies;

3) branches, representative offices, other structural units outside the locations where the financial service is provided.

3. Changing and terminating contracts for rendering financial services, concluded by federal executive bodies, executive bodies of the constituent territories of the Russian Federation, local self-government bodies, state extra-budgetary funds according to the procedures established by this Article, is allowed only in the cases and according to the procedures established by No.94-FZ Federal Law "On State and Municipal Procurement of Goods, Works, Services" of 21<sup>st</sup> July 2005.

4. The duration of a contracts for rendering financial services concluded under Part 1 of this Article (except the contracts for non-state pension provision), cannot be longer than five years, unless otherwise provided for by other federal laws.

5. Violating the provisions of this Article constitutes the grounds for a court to find certain competitive bidding or transactions concluded upon the outcome of such competitive bidding invalid, particularly, at a claim of the antimonopoly authority.

**Article 18(1). The Procedures for Considering Complaints by the Antimonopoly Authority about Violating the Procedures of Competitive Bidding and the Procedures for Concluding Contracts**

1. Under the rules established by this Article, the antimonopoly authority shall consider complaints about actions (omissions) of an organiser of competitive bidding, operator of an electronic site, a tender or auction commission regarding organising competitive bidding, concluding contracts upon the outcome of competitive bidding or if tenders/ auctions that are mandatory under the law of the Russian Federation are declared void, except complaints, consideration of which is provided for by the law of the Russian Federation on state and municipal procurement of goods, works, services.

2. Persons, that filed bids, can appeal actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission to the antimonopoly authority, and if the appeal concerns violations of the procedures for placing information about competitive bidding, the procedures for filing bids established by normative legal acts, complaints can also be lodged by another person (petitioner), the rights and legitimate interests of whom can be infringed or breached as a result of violating the procedures for organisation of competitive bidding (further on referred to in this Article as a petitioner).

3. Appealing actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission to the antimonopoly authority does not prevent appealing these actions (omissions) to a court of law.

4. Actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission can be appealed to the antimonopoly authority according to the procedures established by this Article no later than ten days from the day of closing competitive bidding, or if the results of competitive bidding must be placed on the web-site on the Internet informational-telecommunication network, from the day of such placement, except cases specified by this Federal Law.

5. If a contract is not concluded upon the outcome of competitive bidding, or if competitive bidding is declared void, actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission can be appealed to the antimonopoly authority according to the procedures established by this Article within three months from the day of closing competitive bidding or if the results of competitive bidding must be placed on the web-site on the Internet informational-telecommunication network, from the day of such placement.

6. A complaint against actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission (further on referred to as a complaint) shall be lodged in writing to the antimonopoly authority and shall contain:

1) the name, the place of location, the mailing address, the contact telephone number of the organiser of competitive bidding, the operator of an electronic site, whose actions (omissions) are appealed;

2) the name, information about location (for a legal entity), the family name, first name, patronymic, information about the place of residence (for a physical person) of a

petitioner, the mailing address, the electronic mail address, the contact telephone number, the fax number;

3) indication of the appealed competitive bidding, if information about the appealed competitive bidding must be placed on the web-site on the Internet informational-telecommunication network under the law of the Russian Federation, the address of the web-site where the information is placed;

4) specification of the appealed actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission, relevant arguments;

5) the list of documents enclosed to the complaint.

7. A complaint can be sent to the antimonopoly authority by postal service or by fax, electronic mail, or otherwise.

8. A complaint should be signed by a petitioner or a petitioner's representative. A power of attorney or other document confirming the scope of reference of a petitioner's representative should be enclosed to a complaint lodged by a petitioner.

9. A complaint shall be returned to a petitioner in the following cases:

1) a complaint does not contain information specified in Part 6 of this Article;

2) a complaint is not signed or is signed by a person, whose scope of reference is not documentary confirmed;

3) coming into force of a judicial act that concludes violations or absence of violations in the appealed actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission;

4) the antimonopoly authority made a decision regarding the appealed actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission.

10. A decision to return a complaint can be made within three working days from the day when the complaint is received by the antimonopoly authority, which must inform the petitioner in writing about the made decision on the day when the decision to return the complaint was made, specifying the reasons for returning the complaint.

11. If a complaint is accepted for investigation, within three working days from the day when the complaint was received, the antimonopoly body shall place information about receiving the complaint and its content on the official web-site of competitive bidding or on the web-site of the antimonopoly authority, notify a petitioner, an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission about receiving the complaint and about suspending competitive bidding until examining the complaint on its merits (further on referred to in this Article as a notification). A notification shall include a brief description of the complaint content (the subject of investigation), the address of the official web-site of competitive bidding, where the information about receiving the complaint is placed, or the web-site of the antimonopoly authority, the place and time of examining the complaint. A notification shall be sent by post or fax, or by electronic mail. If a notification is sent by electronic mail, it shall be sent to an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission to the electronic mail address given in the notice about competitive bidding, to an operator of an electronic site to the electronic mail address, given on the web-site of the electronic site on the Internet informational-telecommunication network, given in the complaint.

12. Within one working day as of the day when the notification was received, an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission, whose actions (omissions) are appealed, must inform the persons that filed the bids about the fact of a lodged complaint, its content, the location and time of examination.

13. An organiser of competitive bidding, an operator of an electronic site, a tender or auction commission, a petitioner, as well as persons that filed the bids, can sent to the antimonopoly authority a counterargument to the complaint or an addition to it and take

part in complaint investigation personally or through one's representatives. A counterargument to the complaint should contain information specified in Part 6 of this Article. A counterargument to the complaint shall be sent to the antimonopoly authority no later than two working days before the day of examining the complaint.

14. The antimonopoly authority must examine a complaint on its merits within seven working days from the day when the complaint was received.

15. An organiser of competitive bidding, an operator of an electronic site, a tender or auction commission, whose actions (omissions) are appealed, must submit for examination of a complaint on its merits documentation about competitive bidding, changes introduced to the tender documentation, the auction documentation, the tender bids, the auction bids, the tender bids opening protocol, the auction bids opening protocol, the protocols of tender bids evaluation and comparison, the auction protocols, audio- and video-records and other documents and information drawn up in course of organising and conducting competitive bidding.

16. Examination of a complaint on its merits shall be carried out by a commission of the antimonopoly body. Failure of the persons duly notified (notified by the antimonopoly authority by sending a notification specified in Part 11 of this Article) about the time and location of the examination of a complaint on its merits, does not prevent such examination.

17. Examining a complaint on its merits, a commission of the antimonopoly body shall investigate the appealed actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission. If in course of investigating a complaint a commission of the antimonopoly authority establishes other violations in the actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission, the commission of the antimonopoly authority shall make a decision in view of all revealed violations.

18. From the day of sending a notification specified in Part 11 of this Article, competitive bidding shall be suspended until a complaint against actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission is examined on its merits.

19. If a complaint is accepted for investigation, an organiser of competitive bidding, to whom a notification is sent under Part 11 of this Article, cannot conclude a contract until the antimonopoly authority makes a decision regarding the complaint. A contract concluded in breach of the requirement provided for by this Clause shall be considered null and void.

20. Upon the results of examining a complaint on its merits, a commission of the antimonopoly authority makes a decision to recognise a complaint justified or unjustified, and if the complaint is recognised justified, or, if other violations are established that are not subject to appealing (violations of the procedures of organising competitive bidding, concluding contracts upon the results of competitive bidding or if competitive bidding is declared void), makes a decision to issue a determination under Clause 3<sup>1</sup> Part 1 Article 23 of this Federal Law.

21. A commission terminated processing the complaint in the cases specified in Clauses 3 and 4 Part 9 of this Article.

22. Within three working days from the day of making a decision on a complaint, the antimonopoly authority shall send to an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission, whose actions (omissions) are appealed, copies of a decision, a determination, made upon the results of examining the complaint, and place information about such decision, determination, on the official web-site of competitive bidding or on the web-site of the antimonopoly authority.



23. A decision, or a determination of a commission of the antimonopoly authority can be appealed in a judicial procedure within three months from the day of making a decision or issuing a determination.

24. A petitioner has the right to withdraw a complaint before a decision is made on the merits of the complaint. A petitioner that withdrew a lodged complaint cannot lodge another complaint against the same actions (omissions) of an organiser of competitive bidding, an operator of an electronic site, a tender or auction commission according to the procedures established by this Article.

25. The antimonopoly authority processes complaints against actions (omissions) of a seller of state or municipal property and or an organiser of sales of state or municipal property, organised in an electronic form (further on referred to in this Article, as well as Clause 3(1) Part 1 Article 23 of this Federal Law – the organiser of sales), in course of selling state or municipal property under No.178-FZ Federal Law “On Privatization of State or Municipal Property” of 21<sup>st</sup> December 2001 in accord with the procedures established by this Article, in view of the following specifics:

1) it is allowed to appeal actions (omissions) of a seller of state or municipal property and (or) an organiser of sales to the antimonopoly authority within five working days from the day of placing on the official web-site on the Internet informational-telecommunication network, determined in accordance with Article 15 of No.178-FZ Federal Law “On Privatization of State or Municipal Property” of 21<sup>st</sup> December 2001, or, if placing on this web-site is not provided for, from the day of signing a protocol on recognising applicants as bidders (a protocol on recognising applicants as bidders for sales of state or municipal property by public offering or sales without announcing price) or within five working days from the day of placing on this web-site or, if placing on this web-site is not provided for, from the day of signing the protocol on the results of sales of the property subject to privatisation;

2) a complaint against actions (omissions) of a seller of state or municipal property and (or) an organiser of sales shall be considered by the antimonopoly authority within five working days from the day a complaint was received;

3) if a complaint against actions (omissions) of a seller of state or municipal property and (or) an organiser of sales is processed before the deadline for filing bids for competitive bidding (applications for taking part in sales of state or municipal property by public offering or sales without announcing price), a commission of the antimonopoly authority cannot make a decision on issuing a determination;

4) complaints against actions (omissions) of a seller of state or municipal property and (or) an organiser of sales, related to recognising applicants as bidders for competitive bidding (participants of sales for sales of state or municipal property by public offering or sales without announcing price) or refusing to recognise, cannot be lodged upon expiry of five working days from the day of placing on the official web-site on the Internet informational-telecommunication network specified in Clause 1 of this Part or, if placing on the web-site is not provided for, from the day of signing a protocol on recognising applicants as bidders for competitive bidding (a protocol on recognising applicants as participants of sales for sales of state or municipal property by public offering or sales without announcing price).

## **Chapter 5. Granting of State or Municipal Preferences**

### **Article 19. State or Municipal Preferences**

1. State or municipal preferences can be granted on the basis of legal acts of the federal executive bodies, authorities of the constituent territories of the Russian Federation, local self-

government bodies, other agencies or organizations exercising the functions of the above bodies, exclusively for the purposes of:

- 1) securing vital activities of the population residing in areas of the Extreme North and regions equal to them;
- 2) advancing education and science;
- 3) carrying out research projects;
- 4) protecting the environment;
- 5) preservation, use, popularization, and state protection of cultural heritage (monuments of history and culture) of the peoples of the Russian Federation;
- 6) developing art and culture, and preserving cultural values;
- 7) developing sport and physical culture;
- 8) ensuring national defence and state security;
- 9) producing agricultural products;
- 10) providing social security services;**
- 11) providing labour protection;
- 12) protecting citizens' health;
- 13) supporting small and medium business;
- 13.1) supporting socially-oriented non-commercial organisations in accordance with No.7-FZ Federal Law "On Non-Commercial Organisations" of 12<sup>th</sup> January 1996;
- 14) and for the purposes determined by other Federal Laws, normative legal acts of the President of the Russian Federation and normative legal acts of the Government of the Russian Federation.

**2.** It is forbidden to use state and municipal preferences for the purposes other than stated in the application for consent to granting state or municipal preferences.

**3.** For the purposes listed in Clause 1 of this Article, state or municipal preferences are granted upon a preliminary written consent of an antimonopoly body, except when such preferences are granted:

- 1) on the basis of the Federal Law, **a normative act of the President of the Russian Federation, a normative act of the Government of the Russian Federation**, the laws of the constituent territories of the Russian Federation on the budget, normative legal acts of local self-government bodies on their budget, which include or establish procedures determining the scope of a state or a municipal preference and its beneficiary;
- 2) for financing of unexpected spending of reserve funds in accordance with the budget laws of the Russian Federation;
- 3) when the size of the preference does not exceed the threshold for cash settlement in a single transaction between legal persons in the Russian Federation, determined by the Central Bank of the Russian Federation, if such a preference is not granted more often than once a year to a single person.

**4) in accordance with the federal programmes for developing small and medium-sizes business, regional programmes for developing small and medium-sizes business, municipal and inter-municipal programmes for developing small and medium-sizes business.**

**4.** State or municipal preferences do not include:

- 1) providing property and (or) other objects of civil rights upon the outcome of tenders **organized in accordance with** the law of the Russian Federation, as well as upon the outcome of other procedures, provided for by the legislation of the Russian Federation on state and municipal procurement of goods, works and services;
- 2) transferring, allocating, distributing state or municipal property to individual persons in order to liquidate the consequences of emergencies, military operations and counterterrorist operations;
- 3) formalizing economic control rights or operative management of state or municipal property by economic entities;

4) granting property and (or) other objects of civil rights on the basis of a Federal Law or a judicial ruling that came into force.

**5) providing property and (or) other objects of civil rights equally to each participants of the goods market.**

#### **Article 20. Procedure of Granting of State or Municipal Preferences**

1. A federal executive body, authority of a constituent territory of the Russian Federation, a local self-government body, other agencies or organizations intending to grant a state or municipal preference, should file an application to an antimonopoly body for consent for granting the preference in the form, determined by the federal antimonopoly body. The following documents should be enclosed to the application:

1) a draft act for granting a state or municipal preference, specifying the goal and scope of the preference, if it is granted by transferring property;

2) a list of activities in which the economic entity, to whom a state or municipal preference is intended, has been involved and (or) was involved during two years, preceding the date when the application is filed or within the period of activity, if less than two years, and copies of the documents confirming the rights to perform those activities, if under the laws of the Russian Federation special permissions are and (or) were required for exercising such activities;

3) types of goods, and volume of goods produced and (or) distributed by the economic entity, to whom a state or municipal preference is intended, during two years, preceding the date when the application is filed or within the period of activity, if less than two years, specifying the product codes;

4) financial statements of the economic entity, to whom a state or municipal preference is intended, as of the last accounting date preceding the date when the application is filed, or, if the economic entity does not file financial statements to the tax bodies, other documents specified by the laws of the Russian Federation on taxes and charges;

5) a list of persons, members of the same group of persons with the economic entity, to whom a state or municipal preference is intended, specifying the grounds for persons' joining the group;

6) notarized copies of the articles of association of the economic entity.

2. An antimonopoly body shall consider an application for consent for granting a state or municipal preference, and enclosed documents and shall make one of the decisions specified in Part 3 of the Article within the period not exceeding one month after the application and documents were received. If the filed application and (or) documents did not meet the recruitments specified in Part 1 of the Article, within ten days after receiving the application the antimonopoly body shall make a reasonable decision about nonconformity of the application and (or) documents according to the procedures established by the federal antimonopoly body, and shall return the application for consent for granting a state or municipal preference by registered mail with notification of delivery, enclosing a copy of the decision certified according to the established procedures. The antimonopoly body shall keep the filed documents for a period of fourteen days after the date when the applicant received the notification, within which the applicant can request the application and the documents. If considering the application for consent for granting a state or municipal preference, the antimonopoly body concludes that the actions regarding which the consent of antimonopoly body is sought, do not constitute state or municipal preferences, within ten days after the application was filed, the antimonopoly body, in accordance with the procedures established by the federal antimonopoly body shall make a decision that such actions do not require a consent of the antimonopoly body, and shall inform the application on the day when the decision was made by registered mail with notification of delivery, enclosing a copy of the decision certified according to the established procedures.

3. Upon processing the application for consent for granting a state or municipal preference, the antimonopoly body, in accord with the procedures established by the federal

antimonopoly body, shall make one of the following reasonable decisions, and inform the application about the decision on the day when the decision was made by registered mail with notification of delivery, enclosing a copy of the decision certified according to the established procedures:

1) granting consent for a state or municipal preference, if a state or municipal preference is for the purposes specified in Part 1 Article 19 of the Federal Law and granting the preference cannot result in eliminating or preventing competition;

2) extending the period for considering the application, if processing the application the antimonopoly body concludes that granting the preference can result in eliminating or preventing competition, or that the preference possible does not conform with the purposes specified in Part 1 Article 19 of the Federal Law, and additional information is required to pass the decision under Clauses 1, 3 or 4 of this Part. For such decisions, the period for processing the application cannot be extended for more than two months;

3) refusing a state or municipal preference, if a state or municipal preference does not conform with the purposes specified in Part 1 Article 19 of the Federal Law, or if granting the preference can result in eliminating or preventing competition;

4) granting consent for a state or a municipal preference but introducing restrictions for a state or a municipal preference. A reasonable decision with grounds for applying the restriction(s) shall be made by the antimonopoly body to secure conformity of a state or municipal preference to the purposes specified in Part 1 Article 19 of the Federal Law and to reduce adverse impact on competition. Restrictions can include:

- a) the deadline for granting a state or a municipal preference;
- b) a range of persons to whom a state or a municipal preference can be granted;
- c) the scope of a state or a municipal preference;
- d) the purposes for granting a state or a municipal preference;
- e) other restrictions that would affect the state of competition.

4. If the decision for consent to a state or a municipal preference was given in accord with Clause 4 Part 3 of this Article, the applicant must present documents confirming compliance with the restrictions within a month after a state or a municipal preference was granted; the list of confirming documents is established by the antimonopoly body.

#### **Article 21. Consequences of Violating the Requirements of This Federal Law Granting or Using State or Municipal Preferences**

If an antimonopoly body, exercising control over **granting or** using state or municipal preferences in accordance with the procedures established by the federal antimonopoly body, discovers **the facts of granting preferences in breach of the procedures established by Article 20 of this Federal Law, or** that the preference has not been used in compliance with the purposes stated by the applicant in the application, the antimonopoly body shall issue a determination to the economic entity to which the preference was granted, the federal executive body, the authority of a constituent territory of the Russian Federation, the local self-government body, other agencies and organizations exercising the functions of the above bodies, or organizations that granted the preference, about undertaking measures to return the property or other objects of civil rights provided that a state or municipal preference was granted by transferring state or municipal property, or other objects of civil rights, or shall issue a determination on undertaking measures to stop using the preference by the economic entity that was granted a state or municipal preference, provided that a state or municipal preference was granted in another form.

### **Chapter 6. Functions and Authorities of the antimonopoly body**

#### **Article 22. Functions of the antimonopoly body**

The antimonopoly body fulfills the following main functions:

- 1) ensures state control over observance of the antimonopoly legislation by 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, public extra-budgetary funds, economic entities, physical persons, including use of land, mineral resources, water and other natural resources;
- 2) reveals violations of the antimonopoly legislation, takes measures to stop violations of the antimonopoly legislation and calls to account for such violations;
- 3) prevents monopolistic activity, unfair competition, other violations of the antimonopoly legislation by 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, public extra-budgetary funds, economic entities, physical persons;
- 4) exercises state control over economic concentration, including use of land, mineral resources, water and other natural resources, **as well as in the course of tenders in the cases provided for by the Federal Laws.**

### **Article 23. the Scope of Reference of the Antimonopoly Body**

1. The antimonopoly body fulfills the following authorities:

- 1) initiates and examines cases of violation of the antimonopoly law;
- 2) issues binding determinations to economic entities in cases stated by this Federal Law:
  - a) on termination of concerted practices restricting competition and (or) termination of agreements restricting competition and fulfillment of actions aimed at ensuring competition;
  - b) on termination of abuse of dominant position by economic entity and fulfillment of actions aimed at ensuring competition;
  - c) on termination of violation of rules of non-discriminative access to products;
  - d) on termination of unfair competition;
  - e) on prevention of actions which can be obstacle for beginnings of competition and (or) can lead to prevention, restriction or elimination of competition and violation of the antimonopoly legislation;
  - f) on elimination of the consequences of violation of the antimonopoly legislation;
  - g) on termination of other violations of the antimonopoly legislation;
  - h) on restoration of the situation that existed prior to the violation of the antimonopoly legislation;
  - i) on conclusion of contracts, change of contractual terms or abrogation of contracts in the case if in the course of examination by the antimonopoly body of the case of violation of the antimonopoly legislation the persons whose rights were breached or can be breached applied the relevant application or in the case when the antimonopoly body exercises state control over economic concentration;
  - j) on transference of the profit gained in the result of breach of the antimonopoly legislation to the federal budget;
  - k) on change or restriction of use of brand name in the case if in the course of examination by the antimonopoly body of the case of violation of the antimonopoly legislation the persons whose rights were breached or can be breached applied the relevant application or in the case when the antimonopoly body exercises state control over economic concentration;
  - l) on fulfillment of economic, technical, informational, and other requirements on elimination of discriminative conditions and prevention of its creation;
  - m) on fulfillment of actions aimed at supporting competition, including actions on ensuring access to production facilities or information according to the procedures established by the Federal Law or other statutory legal acts, on granting a right to facilities of industrial

property protection according to the procedures established by the Federal Law or other statutory legal acts, on transference of property rights or prohibition of transference of property rights, on preliminary informing of the antimonopoly body about intention to fulfill actions provided for in the determinations, **on selling particular volume of products through commodity exchange, on preliminary approval by the antimonopoly authority about specifics of determining starting prices for the products to be sold through commodity exchange in accord with the procedures established by the Government of the Russian Federation;**

3) issues binding determinations to the 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, public extra-budgetary funds, as well as their officials, except the cases established by Clause 4 of this Article:

- a) on cancellation or amendment of acts violating the antimonopoly legislation;
- b) on cancellation or amendment of contracts violating the antimonopoly legislation;
- c) on terminating other violations of the antimonopoly legislation, in particular, undertaking measures to return property or other objects of civil rights transferred as a state or a municipal preference;
- d) on fulfillment of actions aimed at ensuring competition.

**3(1) issues binding determinations to an organiser of competitive bidding, a tender or auction commission, a seller of state or municipal property, a sales organiser to exercise actions aimed at eliminating violations of the procedures of organisation of competitive bidding, sales of state or municipal property (further on referred to in this Clause as competitive bidding), the procedures for concluding contracts upon the results of competitive bidding or if competitive bidding is declared void, in particular, determinations to cancel the protocols drawn up in course of competitive bidding, on introducing changes to the documentation about competitive bidding, on abolishing competitive bidding;**

**3(2) issues warnings to stop actions (omissions) that have signs of violating the antimonopoly law, in the cases specified in this Federal Law;**

4) sends to the federal body of executive authority of the securities market, the Central Bank of the Russian Federation proposals on bringing in correspondence with the antimonopoly legislation of acts adopted by them and (or) on remission of actions if such acts and (or) actions violate the antimonopoly legislation;

**4(1) sends written warnings signed by the Head or Deputy Head of the antimonopoly authority about prohibition of violating the antimonopoly law to executives of economic entities that publicly announce their proposed conduct on a goods market if such conduct can lead to violations of the antimonopoly law;**

**4(2) considers complaints about violating the procedures of mandatory under the law of the Russian Federation competitive bidding, sales of state or municipal property;**

5) brings to responsibility for violation of the antimonopoly legislation commercial organizations, non-commercial organizations, their officials, officials of the federal executive authorities, of the bodies of executive authority of the constituent territories of the Russian Federation, of the local self-government bodies, and of other bodies or organizations exercising the functions of the said bodies, as well as other officials of the public extra-budgetary funds, physical persons, including individual entrepreneurs in the cases and in accordance with the procedure established by legislation of the Russian Federation;

6) applies to arbitration court with claims and applications concerning violations of the antimonopoly legislation, including claims and applications:

- a) on pronouncing inoperative or invalid, fully or partially, or contradicting to the antimonopoly legislation, in particular, creating unreasonable obstacles for entrepreneurial activities, statutory legal acts or non-normative acts of federal executive bodies, the authorities of 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;

b) on admitting ineffective or invalid fully or partially of contracts not conforming to the antimonopoly legislation;

c) on obligatory conclusion of a contract;

d) on changing or canceling of a contract;

e) on liquidation of legal persons in the cases provided by the antimonopoly legislation;

f) on recovery of the profit gained in the result of violation of the antimonopoly legislation to the federal budget;

g) on holding persons that allowed such violation of the antimonopoly legislation liable for violating the antimonopoly laws;

h) on admitting tenders invalid;

i) on forcing to execution of decisions and determinations of the antimonopoly body;

j) in other cases provided for by the antimonopoly legislation;

7) participates in examination by the court or the arbitration court of the cases connected with application and (or) violation of the antimonopoly legislation;

**8) keeps**

**a) the Register of economic entities (except financial organizations) that have over thirty five percent share of the particular goods market, or have dominant position on the market of particular goods, if other federal laws for the purposes of their application establish for such a market cases for recognising dominant position of economic entities (further on referred to as the Register). The procedures for compiling and keeping the Register are established by the Government of the Russian Federation;**

**b) a register of the persons that are held administratively liable for violating the antimonopoly law. Information included in the register cannot be published in mass media and placed on the "Internet" informational-and-telecommunication network. The procedures for compiling and keeping the register are established by the Government of the Russian Federation.**

9) posts on the web-site of the antimonopoly body in Internet decisions and determinations concerning the interests of indefinite range of persons;

10) establishes dominant position of economic undertaking in the course of examination of the case of violation of the antimonopoly legislation and while exercising control over economic concentration;

11) controls compliance with the antimonopoly legislation of commercial organizations, non-commercial organizations, federal executive authorities, bodies of public authority 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 by public extra-budgetary funds, physical persons, gets from them the necessary documents and information, explanations in written and verbal form, and in accordance with the procedure established by the legislation of the Russian Federation applies to the agencies discharging operative investigatory activities with request to carry out operative investigations;

12) exercises, according to the procedure established by the Government of the Russian Federation, control over the activity of economic undertakings ensuring organization of trade in the markets of certain products, for example electrical energy (capacity) market in the conditions of stopping of the state regulation of prices (tariffs) for such products, **as well as exercises control over price manipulation on the wholesale and (or) retail markets of electric power (capacity);**

13) exercises other authorities provided for by this Federal Law, other Federal Laws, Decrees of the Present of the Russian Federation, Regulations of the Government of the Russian Federation.

2. Alongside with the authorities indicated in Part 1 of this Article the federal antimonopoly body exercises the following authorities:

- 1) approves the forms of presenting data to the antimonopoly body during the conclusion of transactions and (or) actions provided by Article 32 of this Federal Law;
- 2) approves methodology of determination of an unjustifiably high and unjustifiably low price of a credit organization's service and methodology of determination of justification for a price set by a dominant credit organization for a service not provided by other financial organizations, on coordination with the Central Bank of the Russian Federation;
- 3) approves the procedure of conducting analysis of condition of competition in order to establish dominant position of an economic undertaking and to reveal other cases of prevention, restriction or elimination of competition (procedure of conducting analysis of condition of competition in order to establish dominant position of a financial organization is approved by the federal antimonopoly body, on coordination with the Central Bank of the Russian Federation);
- 4) issues legal statutory acts provided for by this Federal Law;
- 5) gives explanations on issues connected with application of the antimonopoly legislation by it;
- 6) gives conclusions, in accordance with the established procedures, on the consequences of special protective, antidumping and compensation measures, or the consequences of changing the rates of customs duties for the state of competition in the goods markets in the Russian Federation;
- 7) submits proposals to licensing bodies on cancellation, revocation of economic undertakings' violating the antimonopoly legislation licenses for exercising some types of activities or suspension of such licenses;
- 8) cooperates with international organizations and State bodies of foreign countries, Participates in development and implementation of international treaties of the Russian Federation and the work of intergovernmental or interdepartmental commissions coordinating international cooperation of the Russian Federation, implementation of international programs and projects on the questions of protection of competition;
- 9) sums up and analyzes the practice of application of the antimonopoly legislation, works out recommendations on its application;
- 10) annually submits report on condition of competition in the Russian Federation to the Government of the Russian Federation and posts it in the website of the antimonopoly body in Internet.

#### **Article 24. The Rights of the Officers of Antimonopoly Bodies during the Inspections of Compliance with the Antimonopoly Legislation**

When exercising control over compliance with the antimonopoly legislation, officers of an antimonopoly body, in accord with their authority and upon presenting their certificates of employment and the order of the Head of the antimonopoly body about organizing an inspection of compliance with the antimonopoly legislation (further on referred to as an inspection), have the rights of unimpeded access to the federal executive bodies, the executive bodies of the constituent territories of the Russian Federation, local self-government bodies, other agencies and organizations exercising the functions of the above bodies, as well as state extra-budgetary funds, and non-profit organizations in order to obtain documents and information required by the antimonopoly body.

#### **Article 25. Obligation to Provide Information to the Antimonopoly Body**

1. Commercial organizations and non-commercial organizations (their management), the federal executive bodies (their officials), executive bodies of the constituent territories of the Russian Federation (their officials), local self-government bodies (their officials), other agencies or organizations exercising the functions of the above bodies, as well as state extra-budget funds



(their officials), physical persons, including individual entrepreneurs, are obliged to provide to the antimonopoly body, upon its reasonable request within the established period, and in accordance with its scope of reference, documents, explanations, and information, orally or in writing (including information constituting commercial, official, other legally protected secrets), including **acts, contracts, certificates, business correspondence, other documents and materials in the form of digital recording or in electronic format.**

2. The Central Bank of the Russian Federation is obliged to produce its standard acts and other information necessary for making analysis of the condition of competition in the market of services of credit organizations and execution of control over its condition, except the information constituting banking secret, on letter of inquiry of the federal antimonopoly body.

3. Information constituting commercial, official or other legally protected official secret is produced to the antimonopoly body in accordance with the requirements established by the Federal Laws.

### **Article 25(1). Inspections by an Antimonopoly Body**

1. To control compliance with the antimonopoly legislation, an antimonopoly body can carry out scheduled and unscheduled inspections of the federal executive bodies, the authorities of the constituent territories of the Russian Federation, local self-government bodies, other agencies and organizations exercising the functions of the above bodies, as well as state extra-budgetary funds, commercial and non-commercial organizations, physical persons, including individual entrepreneurs (further on also referred to as an inspected person). Non-commercial organizations can only be inspected for compliance with Articles 10, 11, 14 – 17(1), 19 – 21 of this Federal Law when they are involved in entrepreneurial activities or coordinate economic activities of other economic entities. This Federal Law does not provide for inspections of non-commercial organizations for compliance with the objectives of their activities, specified in the articles of association of those organizations. Scheduled and unscheduled inspections should be organized in the form of on-site inspections.

2. Grounds for scheduled inspections - upon expiration of three years after:

1) a legal person or an organization was formed or official registration of an individual entrepreneur in accord with the procedures established by the laws of the Russian Federation;

2) the last scheduled inspection of the inspected person was completed by an antimonopoly body.

3. Scheduled inspections can take place no often than once per three years. The subject matter of a scheduled inspection is compliance of the inspected person with the antimonopoly legislation in exercising economic activities.

4. Grounds for unscheduled inspections:

1) materials received from the law enforcement bodies, other government agencies, local self-government bodies, voluntary associations, which indicate elements of violations of the antimonopoly legislation;

2) reports and statements from physical persons and legal entities, information in mass media, which indicate elements of violations of the antimonopoly legislation;

3) expiration of the period for executing *na* determination issued upon investigating a case on violations of the antimonopoly law, **or in course of exercising state control over economic concentration according to the procedures established by Chapter 7 of this Federal Law.**

**4) instructions from the President of the Russian Federation and the Government of the Russian Federation;**

**5) the antimonopoly authority revealing signs of violating the antimonopoly law.**

5. The subject matter of an unscheduled inspection is compliance of the inspected person with the antimonopoly legislation in exercising economic activities, or execution of the earlier issued determination, if the grounds for inspection relate to Clause 3 Part 4 of this Article.

6. An inspection is organized in accordance with an order by the Head of the antimonopoly body.

7. An order by the Head of the antimonopoly body on organizing an inspection must include the following information:

- 1) the name of the antimonopoly body;
- 2) the family name, first name, patronymic of the official(s) authorized to carry out the inspection and of the experts and representatives of expert organizations brought into the inspection;
- 3) the name of the legal entity or the family name, first name, patronymic of the individual entrepreneur who are inspected, **the address of the whereabouts or the place of residence of the inspected person;**
- 4) the inspection's objectives, goals and period;
- 5) the legal grounds for the inspection;
- 6) the list of control actions, required to achieve the inspection's goals and objectives, and their period;
- 7) the list of Administrative Regulations about inspections;
- 8) the dates for the start and end of the inspection.

8. A standard form of the orders on organizing inspections shall be approved by the federal antimonopoly body.

9. The period of inspection shall be no longer than one month from the date when the inspection was started, as specified in the order, to the date when the Inspection Act is handed over or sent by mail to the inspected person. As an exception, the Head of the antimonopoly body can extend this period for two months upon reasonable proposals from the officers, carrying out the inspection.

10. Grounds for extending the period of inspection include the need for expert examinations, research, testing, translation into Russian of the documents presented by the inspected person in foreign languages, and other necessary actions, without which it is impossible to assess whether the inspected person has complied with the antimonopoly legislation. The procedures for extending the inspection period shall be established by the federal antimonopoly body.

11. As part of an inspection, an antimonopoly body can inspect the work of business units of the inspected person, including subsidiaries and representative offices.

12. The inspected person shall be informed about a scheduled inspection no later than three working days before the inspection by forwarding a copy of the order of the Head of the antimonopoly body on organizing the inspection by registered mail with notification of delivery or by other available means. The inspected person shall be informed about an unscheduled inspection no later than twenty four hours before the inspection by any available means. This provision is not applicable to unscheduled inspections for compliance with Article 11 of this Federal Law.

#### **Article 25(2). Access of officers of an antimonopoly body to a territory or premises for the purposes of inspection**

1. Officers of an antimonopoly body, carrying out an inspection, have access to a territory or premises of the inspected person upon presenting their certificates of employment and the order of the head of the antimonopoly body on organizing the inspection of the inspected person. Officers, carrying out the inspection, are not allowed to have access to the dwelling of the inspected person.

2. If access of the officers of the antimonopoly body, carrying out an inspection, have impeded access to a territory or premises of the inspected person, the officers must draw up a report in accordance with the procedures established by the federal antimonopoly body. If the inspected person refuses to sign the report, it should be put on record in the report.

3. The report form shall be approved by the federal antimonopoly body.

#### **Article 25(3). Examination**

1. To clarify the circumstances, important for completeness of an inspection, officers of an antimonopoly body, carrying out the inspection, can examine territories, premises (except the dwelling of the inspected person), documents and objects of the inspected person.

2. The inspected person, his representatives, as well as other persons brought into the inspection by the antimonopoly body can take part in the examination. The examination shall take place in the presence of at least two attesting witnesses. Any physical persons, not interested in the outcome of the case, can be called as attesting witnesses. Officers of antimonopoly bodies cannot be attesting witnesses. If special knowledge is required for exercising the examination, the antimonopoly body can initiate participation of professional specialists and (or) experts.

3. If necessary, the examination shall include taking photographs and filming, video recording, or taking copies of the documents, **as well as copies documents in electronic format.**

4. A protocol shall be drawn up upon the findings of the inspection. The protocol form shall be approved by the federal antimonopoly body.

#### **Article 25(4). Requesting documents and information in course of an inspection**

**1. Officers of an antimonopoly authority, carrying out an inspection, can request documents and information required for inspection from the inspected person by handing a reasonable request to submit documents and information over to the inspected person or the inspected person's representative upon receipt. The form for requesting documents and information shall be approved by the federal antimonopoly body.**

2. The requested documents shall be presented as copies, certified in accordance with the procedures established by the legislation of the Russian Federation. If necessary, officers of an antimonopoly body, carrying out the inspection, have the right to check the original documents.

3. Documents and information requested in course of the inspection shall be presented within three working days after the date when after the request was served. If the inspected person does not have a possibility to present the requested documents within three working days, then within the day following the day when the request for presenting documents and information, this person shall inform officers of an antimonopoly body, carrying out an inspection, in writing that it is impossible to present documents and information within the designated period, specifying the reasons, why the documents and information cannot be presented within the designated period and the period within which the inspected person is able to present the requested documents and information. Within two working days after the date when the notice was received, an officer of the antimonopoly body shall make a reasonable decision, on the basis of the received notice and according to the procedures established by the federal antimonopoly body, on a new deadline for presenting documents and information, or a reasonable decision to refuse to grant an extension, specifying the reasons for such a refusal. A copy of the decision, certified in accordance with the established procedures, shall be forwarded to the inspected person by any available means.

**4. If an inspected person fails to submit within the designated period or knowingly submits incorrect information and data, this person shall be held liable in accordance with the law of the Russian Federation.**

#### **Article 25(5). General Requirements to a Protocol Drawn up when Exercising Actions of Antimonopoly Control**

1. In cases specified by this Federal Law, when exercising actions of antimonopoly

control (further on referred to as actions, antimonopoly bodies must draw up Protocols. The Protocols shall be drawn up in Russian.

2. The Protocols should indicate:

1) the content of actions;

2) place and date of actions;

3) время начала и окончания проведения действий;

4) position, family name, first name, patronymic of the person that drew up the Protocol;

5) family name, first name, patronymic of each person who participated in actions or was present when those actions took place, and if necessary address and citizenship of such persons and information whether they are fluent in Russian;

6) the content of actions, and their consequence;

7) essential facts and circumstances revealed in course of actions.

3. The Protocol shall be signed by all persons who took part in exercising actions and were present when actions took place. Those persons can make comments that should be included in the Protocol.

4. . The Protocol shall be signed by the officer of an antimonopoly body who drew up the Protocol and by all persons who took part in exercising actions and were present when actions took place. A copy of the Protocol must be handed over or forwarded to the inspected person by registered mail with notification of delivery.

5. Photographs and negatives, reels of films, video records and other materials made in course of exercising actions should be enclosed to the Protocol;

#### **Article 25(6). Registering Inspection Findings**

**1. An inspection act shall be drawn in two copies upon the findings of an inspection, one of which shall be handed over or sent to the inspected person or person's representative by registered mail with notification of delivery.**

2. The report form shall be approved by the federal antimonopoly body.

3. Inspection findings, containing information that constitutes state, official, or other legally protected secrets, shall be registered in compliance with the legislation of the Russian Federation.

#### **Article 259(7). Warning about Prohibition to Violate the Antimonopoly Law**

**1. To prevent violations of the antimonopoly law, the antimonopoly authority shall send a written warning to an officer of an economic entity about prohibition to exercise actions that can lead to violating the antimonopoly law (further on referred to as a warning).**

**2. The grounds for a warning is a public statement by an officer of an economic entity about proposed conduct if such conduct can lead to violating the antimonopoly law and there are no grounds to initiate and investigate a case on an antimonopoly violation.**

**3. A decision to send a warning shall be taken by the Head of the antimonopoly authority no later than ten days from the day when the antimonopoly authority found out about the public statement made by an officer of an economic entity about the proposed conduct on a goods market.**

**4. A warning must comprise:**

**1) the conclusions about the grounds for sending a warning;**

**2) the norms of the antimonopoly law that an economic entity could violate.**

**5. The procedures for sending a warning and the form of warnings are approved by the antimonopoly authority.**

#### **Article 26. Obligation of the Antimonopoly Authority to Observe Commercial, Official, and Other Legally Protected Secrets**

1. Information constituting commercial, official, and other legally protected secret and obtained by the antimonopoly body in the process of execution of its authorities, must not be disclosed except the cases established by the Federal Laws.

2. Employees of the antimonopoly body bear civil, administrative, criminal liability for disclosing information constituting commercial, official, or other legally protected secret.

3. The damage inflicted on a natural or a legal person in the result of disclosure of information constituting commercial, official, other legally protected secret by the antimonopoly body or its officials must be compensated at the expense of the Russian Federation treasury.

## **Chapter 7. State Control over Economic Concentration**

### **Article 26(1). Transactions, Other Actions that are Subject to State Control**

**Under this Chapter, subject to state control are transactions, other actions with assets of Russian financial organisations and located in the Russian Federation fixed production-related assets and (or) intangible assets, or with regard to voting stocks (shares), the rights regarding Russian commercial and non-commercial organisations, as well as foreign persons and (or) organisations supplying goods to the Russian Federation for over one billion Rubles within a year preceeding the date of the transaction, another action subject to state control.**

### **Article 27. Incorporation and Restructuring of Commercial Organizations Subject to the Antimonopoly Body Prior Consent**

1. The following actions shall only be performed with the antimonopoly body's prior consent:

1) the merger of commercial organizations (with the exception of financial organizations), if the aggregate value of the assets thereof (assets of their group of persons) in accordance with the accounting balance sheets as at the latest reporting date preceding the date of submission of the petitions (further on referred to as the latest balance sheet, in case of submission of a notice, shall be deemed to be the accounting balance sheet as at the latest reporting date preceding the date of merging the commercial organizations) exceeds **seven** billion Rubles or if the aggregate revenues from sale of commodities of such organisations (their group of persons) for the calendar year preceding the merger exceed **ten** billion Rubles, or where one of the organisations is included into the Register of economic entities;

2) joining one or several commercial organizations (with the exception of financial organizations) with another commercial organization (with the exception of a financial organization) if the aggregate value of the assets thereof (assets of their groups of persons) in accordance with their latest balance sheets exceeds **seven** billion Rubles or if the aggregate revenues from the sale of commodities of such organizations (their group of persons) from the calendar year preceding the consolidation year exceed **ten** billion Rubles or where one of the organizations is listed in the Register.

3) the merger of financial organizations or joining of one or several financial organizations with another financial organization, if the aggregate value of the assets thereof in accordance with their latest balance sheets exceeds the amount established by the Government of the Russian Federation (in case of a merger or consolidation of lending institutions, this amount shall be established by the Government of the Russian Federation in coordination with the Central Bank of the Russian Federation);

**4) establishing a commercial organization if its charter capital is paid by stocks (shares) and (or) property that are the main production-related assets and (or) intangible**

assets of another commercial organization (with the exception of a financial organization), in particular, on the basis of an act of transfer or dividing balance sheets, and in relation to those stocks (shares) and (or) property the newly established commercial organisation shall acquire the rights stipulated by Article 28 of this Federal Law, and the aggregate value of the assets in accordance with the latest balance sheets of the founders of the commercial organisation (their groups of persons) and persons (their groups of persons), whose stocks (shares) and (or) property are contributed to the charter capital, exceeds seven billion Rubles or if the aggregate revenues of the founders of the commercial organization (their groups of persons) and persons (their groups of persons), whose stocks (shares) and (or) property are contributed to the charter capital, from selling goods in the last calendar year exceed ten billion Rubles, or if the organization, whose stocks (shares) and (or) property are contributed to the charter capital, is included in the Register;

5) incorporation of a commercial organization if the charter capital is paid by stocks (shares) or assets of a financial organization (except monetary funds) and (or) the new commercial organization acquires such stocks (shares) or assets of a financial organisation, and with regard to such stocks (shares) acquired the rights provided for by Article 29 of this Federal Law, and the value of the assets in accordance with the latest balance sheet of the financial organization whose stocks (shares) or assets are being contributed to the charter capital exceeds the amount established by the Government of the Russian Federation (in case of the stocks (shares) and (or) assets (except monetary funds) of a credit organization, this sum shall be established by the Government of the Russian Federation in coordination with the Central Bank of the Russian Federation);

6) a financial organisation merging with a commercial organisation (except a financial organisation), if the asset value of the financial organisation in accordance with the latest balance sheet exceeds the value established by the Government of the Russian Federation;

7) a commercial organisation (except a financial organisation) merging with a financial organisation if the asset value of the financial organisation in accordance with the latest balance sheet exceeds the value established by the Government of the Russian Federation (for merging with a credit organisation such value is established by the Government of the Russian Federation in coordination with the Central Bank of the Russian Federation).

2. The requirement for obtaining the antimonopoly body's prior consent for exercising actions, as stipulated by Part 1 of this Article, shall not apply if actions specified in Part 1 of this Article are performed by members of the same group of persons on the grounds specified in Clause 1 Part 1 Article 9 of this Federal Law, or if transactions specified in Part 1 of this Article are completed in compliance with conditions specified in Article 31 of this Federal Law, or the performance of such actions are stipulated by acts of the President of the Russian Federation or acts of the Government of the Russian Federation.

#### **Article 28. Transactions with Shares (Ownership Interest), the Property of Commercial Organizations, or Rights in respect of Commercial Organizations Subject to the antimonopoly body's Prior Consent**

1. If the aggregate value of assets in accordance with the latest balance sheets of the person acquiring stocks (shares), rights and (or) property and the person's group of persons, a person that is an object of economic concentration, and its group of persons exceeds seven billion Rubles or if their aggregate revenues from goods sales in the last calendar year exceeds ten billion Rubles and the aggregate asset value according to the last balance sheet of the person, who is an object of economic concentration, exceeds two hundred and fifty million Rubles, or if one of the above-mentioned persons is included in

**the Register, the following transactions with stocks (shares), rights and (or) property shall be conducted subject to preliminary approval by the antimonopoly body:**

1) the acquisition by a person (a group of persons) of voting stocks of a joint-stock company **registered in the Russian Federation** if such person (a group of persons) acquires the right to manage more than twenty five percent of the stocks prior to this acquisition such person (a group of persons) did not manage the voting stocks of the joint-stock company or manages no more than twenty five percent of voting stocks of the joint stock company. This requirement shall not apply to the founders of the joint-stock company during its incorporating;

2) the acquisition by a person (group of persons) of shares in the authorized capital of a limited liability company **registered in the Russian Federation** if such person (group of persons) acquires the right to manage more than one third of stocks in the authorized capital of the company provided that prior to this acquisition such person (group of persons) did not manage any stock of this Particular company or managed less than one third of stocks in the authorized capital of the company. This requirement shall not apply to the founders of the limited liability company during its incorporation;

3) the acquisition of shares in the authorized capital of a limited liability company **registered in the Russian Federation** by a person (group of persons), managing not less than one third of the stocks and not more than fifty percent of the stocks in the authorized capital of the company if such person (group of persons) acquires the right to manage more than fifty percent of the shares;

4) acquisition by a person (a group of persons) administering not less than twenty five percent and not more than fifty percent of voting stocks of a joint stock company **registered in the Russian Federation**, of the voting stock of such joint stock company if this person (a group of persons) gets the right to administer more than fifty percent of these voting stocks;

5) acquisition of shares in the authorized capital of a limited company **registered in the Russian Federation** by a person (a group of persons) administering not less than fifty percent and not more than two thirds of shares in the authorized capital of this company if this person (a group of persons) gets the right to administer more than two thirds of the indicated shares;

6) acquisition by a person (a group of persons) administering not less than fifty percent and not more than seventy five percent of voting stocks of a joint stock company **registered in the Russian Federation** if this person (a group of persons) gets the right to administer more than seventy five percent of such voting stocks;

7) obtaining by an economic entity (a group of entities) of fixed production assets (except plots of land and non-industrial buildings, structures, installations, premises and parts of premises, incomplete construction facilities) and (or) non-material assets of another economic entity **registered in the Russian Federation** (with the exception of a financial organization) in possession, usage or ownership, if the balance value of property, which constitutes the subject of transaction or mutually related transactions exceeds twenty percent of the book value of the fixed production assets and non-material assets of the economic entity alienating or transferring the property;

8) acquisition by a person (a group of persons) as a result of one or several transactions including transactions based on agreement on trust management, joint activity or agency contract, of rights enabling to determine the terms of exercising business activity of the economic entity **registered in the Russian Federation** (except a financial organization) or exercise the functions of its executive body.

**9) acquiring by a person (a group of persons) over 50% of voting stocks (shares) of a legal entity founded outside the Russian Federation, or other rights enabling to determine the conditions of exercising entrepreneurial activities by such legal entity or exercise the functions of its executive board.**

2. Requirements provided for by Part 1 of this Article on getting preliminary consent of the antimonopoly body for execution of actions is not applied if the actions stated in Part 1 of this Article are exercised in accordance with the conditions established in Article 31 of this

Federal Law or if their execution is provided for by the acts of the President of the Russian Federation or acts of the Government of the Russian Federation or if the transactions are exercised with stocks (shares) of financial organizations.

**3. Determining the aggregate asset value of a person acquiring stocks (shares), rights and (or) property), and its group of persons and persons that are objects of economic concentration, and its group of persons under Part 1 of this Article shall not be taken into consideration the assets of a person who sells (alienates) stocks (shares) or rights with regard to a person that is an object of economic concentration (a selling person), and its group of persons, if as a result of a transaction the selling person and its group of persons lose the rights enabling to determine the conditions of exercising entrepreneurial activities by the person that is an object of economic concentration.**

### **Article 29. Transactions with Stocks (Shares), Assets of Financial Organizations and Rights in respect of Financial Organizations Subject to Prior Consent of an Antimonopoly Body**

1. If the value of the assets according to the latest balance sheet of a financial organizations exceeds the amount established by the Government of the Russian Federation (in case of conclusion of transactions with stocks (shares), assets of a lending institutions or with rights in respect of a lending institution, this amount shall be established by the Government of the Russian Federation in coordination with the Central Bank of the Russian Federation), the following transaction with stocks (shares), assets of a financial organizations or with rights in respect of a financial organizations shall be conducted subject to the antimonopoly body's prior consent:

1) the acquisition by a person (group of persons) of voting stocks of a joint-stock company if this person (group of persons) acquires the right to manage more than twenty five percent of the voting stocks provided that prior to this person (group of persons) did not manage the voting stocks of the joint-stock company This requirement shall not apply to the founders of the financial organizations during its incorporation;

2) the acquisition by a person (a group of persons) of stocks in the authorized fund of a company of limited liability if this person (a group of persons) gets the right to administer more than one third of stocks in the authorized fund of this Particular company on the condition that before the acquisition such person (a group of persons) did not administer stocks of this company or administered less than one third of stocks in the authorized fund of the mentioned company. This requirement is not applied to the promoters of a financial organization during its foundation;

3) acquisition of stocks in the authorized fund of a company of limited liability by a person (a group of persons) administering not less than one third of stocks and not more than fifty percent of stocks in the authorized fund of this company if this person (a group of persons) gets the right to administer more than fifty percent of the mentioned stocks;

4) acquisition of voting stocks of a joint stock company by a person (a group of persons) administering not less than twenty five percent and not more than fifty percent of voting stocks of a joint stock company if this person (a group of persons) gets the right to administer more than fifty percent of such voting stocks;

5) acquisition of shares in the authorized fund of a company of limited liability by a person (a group of persons) administering not less than fifty percent and more than two thirds of stocks in the authorized fund of this company if this person (a group of persons) gets the right to administer more than two thirds of the mentioned stocks;

6) acquisition of voting stocks of a joint stock company by a person (a group of persons) administering not less than fifty percent and not more than seventy five percent of voting stocks of a joint stock company if this person (a group of persons) gets the right to administer more than seventy five percent of such voting stocks;



7) acquisition by a person (a group of persons) in the result of one or several transaction of assets of a financial organization (**except monetary funds**), the amount of which exceeds the amount established by the RF government;

8) acquisition by a person (a group of persons) in the result of one or several transactions, including transactions based on agreement on trust management, joint activity or agency contract, of rights enabling to determine the terms of conducting business activity or exercise the functions of its executive body.

**2. Requirements provided for by Part 1 of this Article on getting preliminary approval of the antimonopoly body for execution of transactions is not applied if the transactions specified in Part 1 of this Article are exercised by members of the same group of persons on the grounds, specified in Clause 1 Part 1 Article 9 of this Law, or if transactions specified in Part 1 of this Article are exercised in accordance with the conditions established in Article 31 of this Federal Law or if their execution is provided for by the acts of the President of the Russian Federation or the acts of the Government of the Russian Federation.**

### **Article 30. Transactions, Other Actions, about Execution of Which the Antimonopoly Body Should be Notified**

The antimonopoly body should be notified:

1) by a commercial organization about its creation in the result of merger between commercial organizations (except mergers between financial organizations) if the aggregate asset value according to the last balance sheet or aggregate revenues from the sale of products for the calendar year preceding the year of merger of commercial organizations, whose activity is terminated in the result of merger, exceed four hundred million Rubles – not later than forty five days from the date of merger;

2) by a commercial organization about one or several commercial organizations joining it (except financial organizations) if the aggregate asset value of the mentioned organizations, according to the last balance sheet or the aggregate revenues from the sale of goods in the calendar year preceding the year of joining exceeds four hundred million Rubles, - no later than forty five days from the date of joining;

3) by a financial organization about its creation in the result of merger between financial organizations if the aggregate asset value according to the last balance sheets of financial organizations, whose activities shall be terminated as a result of the merger, does not exceed the amount established by the Government of the Russian Federation (if the credit organization is created in the result of merger this amount is established by the Government of the Russian Federation in coordination with the Central Bank of the Russian Federation), - not later than forty five days from the date of merger;

4) by a financial organization on the joining to it of one of several financial organizations if the aggregate asset value of those financial organizations according to the last balance sheet does not exceed the amount established by the Government of the Russian Federation (if the credit organization is created in the result of joining this amount is established by the Government of the Russian Federation in coordination with the Central Bank of the Russian Federation), - not later than forty five days from the date of joining;

5) by persons acquiring stocks (shares), rights and (or) property (except stocks (shares), **rights** and (or) assets of financial organizations) about transactions, other actions specified in Article 28 of this Federal Law, if the aggregate asset value, according to the last balance sheet, or the aggregate revenue, from selling the goods, of the person acquiring stocks (shares), rights and (or) property and its group of persons and the person, whose stocks (shares), and (or) property, and the rights in its relation are acquired, and its group of persons, in the calendar year preceding the year of such transactions, other actions, exceeds four hundred million Rubles, and at the same time the aggregate asset value according to the last balance sheet of the person,

whose stocks (shares) and (or) property are acquired, or concerning whom the rights are acquired, and its group of persons, exceeds sixty million Rubles, - no later than forty five days from the date of completing such transaction, or other actions;

**5(1) a commercial organisation (except a financial organisation) on acquiring a financial organisation, if the asset value of a financial organisation according to the last balance sheet exceeds the value established by the Government of the Russian Federation;**

6) the persons acquiring stock (shares), rights, property and (or) **assets** of a financial organization, on completing transaction, or other actions, specified in Article 29 of this Law, if their asset value according to the last balance sheet exceeds the threshold established by the Government of the Russian Federation (for transactions with stock (shares) and (or) assets of a credit organization or the rights concerning a credit organization the value threshold is established by the Government of the Russian Federation upon agreement with the Central Bank of the Russian Federation), - no later than forty five days from the date of completing such transaction, or other actions.

2. Requirement on notification of the antimonopoly body provided for by Part 1 of this Article is not applied if transactions, other actions are exercised with preliminary consent of the antimonopoly body.

### **Article 31. Specifics of the State Control over Economic Concentration Exercised by a Group of Persons**

1. Transactions, other actions stated in Articles 27 – 29 of this Federal Law are exercised without preliminary consent of the antimonopoly body, but with its further notification about their implementation in accordance with the procedure established by Article 32 of this Federal Law in the case if in aggregate the following conditions are observed:

1) transactions, other actions stated in Articles 27 – 29 of this Federal Law are exercised by persons included in one group of persons;

2) list of persons included into one group with indication of the grounds, on which these persons were included into this group, was submitted by any included into this group person (applicant) to the federal antimonopoly body in the established form not later than one month before the implementation of transactions, other actions;

3) the list of persons included into this group has not changed for the moment of implementation of transactions, other actions in comparison with the list of such persons submitted to the federal antimonopoly body.

2. Within fourteen days from the date of receipt of the list of persons included into one group with indication of the grounds on which these persons were included into this group the federal antimonopoly body sends the applicant one of the following notifications about:

1) receipt of such a list and its displaying on the official site of the federal antimonopoly body in the Internet, if this list was submitted in the form approved by the antimonopoly body;

2) violation of the form of submitting of such list and non-compliance with the conditions stated by Part 1 of this Article.

3. The antimonopoly body must be informed about transactions, other actions, exercised in accordance with the conditions established by this Article, by a person which was interested in implementation of transactions, other actions stated in Articles 28 and 29 of this Federal Law or by a person which was created in the result of implementation of transactions, other actions stated in Article 27 of this Federal Law, - not later than forty five days from the date of implementation of such transactions, other actions.

4. The federal antimonopoly body approves the form of submitting list of persons included into one group with indication of the grounds on which these persons were included into one group.

5. The federal antimonopoly body shall remove information published at the official Internet site of the federal antimonopoly body from the site, if it ascertains the fact that information presented about members of the same group of persons is unreliable.

**Article 32. Persons, Submitting Pre-merger and Post-merger Notifications about Implementation of Transactions and Other Actions Subjected to State Control, as well as Documents and Information to the antimonopoly body**

1. For the purposes of getting preliminary consent of an antimonopoly body in the cases specified in Articles 27 – 29 of this Federal Law or for the purposes of notifying the antimonopoly body in the cases specified in Articles 30 and 31 of this Federal Law, the following persons shall petition to the antimonopoly body:

1) persons exercising actions specified in Clauses 1-3, **6 and 7** Part 1 Article 27 of this Federal Law;

2) persons or one of the persons that make decision on creating a commercial organization in the cases specified in Clauses 4 and 5 Part 1 Article 27 of this Federal Law Articles 30 and 31 of this Federal Law to notify the antimonopoly body about implementation of transactions, other actions;

3) persons, acquiring stock (shares), property assets of economic entities, the rights concerning economic entities, as a result of transactions specified in Articles 28 and 29 of this Federal Law;

4) the persons that under of this Federal Law are obligated to notify the antimonopoly body about completing transactions or other actions.

2. Persons listed in Clauses 1-3 Part 1 of this Article should petition to the antimonopoly body for granting consent for transactions or other actions.

3. Persons who are obliged by Articles 30 and 31 of this Federal Law to notify the antimonopoly body about implementation of transactions, other actions submit to the antimonopoly body a pre-merger notification about implementation of such transactions, other actions.

4. Pre-merger or post-merger notification about implementation of transactions, other actions can be submitted to the antimonopoly body by a representative of applicant.

5. The following documents are submitted to the antimonopoly body together with the pre-merger or post-merger notification about implementation of transactions, other actions subjected to state control:

1) notarized copies of constituent documents for the petitioner – a legal person or family name, first name, patronymic of the petitioner – a physical person, data of his/her identity document (series and (or) number of the document, date and place of issue, the body that issued the document) as of the date when submission of a pre-merger petition or a post-merger notification;

2) notary certified documents and (or) information defining the subject and content of the transactions, or other actions subject to state control;

3) information about the types of activity exercised by the applicant during the last two years before the date of submitting pre-merger or post-merger notification or the period of activity if it is less than two years, as well as copies of the documents confirming the right for implementation of those types of activity, if according to the legislation of the Russian Federation a special permission required to exercise those activities, which can be exercised only by special permission in accordance with the law;

4) description of types of products, volume of products produced and sold by the petitioner in the last two years before the date of submitting a pre-merger petition or a post-merger notification or the period of implementation of the activity if it is less than two years, specifying the products' nomenclature codes;

5. Simultaneously with a petition or a notification about concluding transactions, other actions subject to antimonopoly control, shall submit to the antimonopoly authority:

1) a legal entity - notary-certified copies of the founding documents of a petitioner, or a physical person - the family name, first name, patronymic of a petitioner, and information about one's identity document (the series and (or) the number of the document, date and place of its issue, the body and issued the document), as of the date of submitting a petition or a notification;

2) notary-certified copies of the founding documents of a person that is the object of economic concentration, as of the date of submitting a petition or a notification or a written statement that the petitioner does not have such documents;

3) documents and (or) information defining the subject and content of the transactions, other actions subject to antimonopoly control;

4) information about the types of activities exercised by a petitioner within the years preceeding the day of submitting a petition or a notification, or within the period of exercising activities if less than two years, as well as copies of the documents confirming the right to exercise these types of activities, if under the law of the Russian Federation special permits are required to exercise them;

5) information about the names of the types of products produced, sold by a petitioner within two years preceeding the day of submitting a petition or a notification, or within the period of exercising activities if less than two years, specifying the codes of the product nomenclature;

6) available to a petitioner information about the main types of activities of the persons specified in Articles 27 - 30 of this Federal Law, on the names of the types of products, quantity of products produced, sold by such persons within two years preceeding the day of submitting a petition or a notification, or within the period of exercising activities if less than two years, specifying the codes of product nomenclature, as well as copies of documents confirming the right to exercise these types of activities, if under the law of the Russian Federation special permits are required to exercise them, or a written statement that the petitioner does not have such information and documents;

7) a balance sheet of a petitioner as of the last accounting date preceeding the date of submitting a petition, and if submitting a notification – as of the last accounting date preceeding the date of concluding a transaction, another action;

8) information about the total book value of the assets of a petitioner and the petitioner's group of persons as of the last accounting date preceeding the date of submitting a petition, and if submitting a notification – as of the last accounting date preceeding the date of concluding a transaction, another action;

9) information about the total book value of the assets of a person that is the object of economic concentration and this person's group of persons as of the last accounting date preceeding the date of submitting a petition, and if submitting a notification – as of the last accounting date preceeding the date of concluding a transaction, another action, or a written statement that the petitioner does not have such information;

10) financial-and-economic and other accounting of a petitioner, submitted to the Central Bank of the Russian Federation and to the federal executive bodies regulating the market of financial services, as of the last accounting date preceeding the date of submitting a petition, and if submitting a notification – as of the last accounting date preceeding the date of concluding a transaction, another action, if the petitioner is a financial organisation;

11) if stocks (shares), property and (or) assets of a financial organisations and (or) the rights with regard to it are acquired, financial-and-economic and other accounting of a person that is the object of economic concentration, submitted to the Central Bank of the Russian Federation and to the federal executive bodies regulating the market of financial services, as of the last accounting date preceeding the date of submitting a petition, and if

submitting a notification – as of the last accounting date preceding the date of concluding a transaction, another action, or a written statement that the petitioner does not have these documents;

12) a list of commercial organisations, over 5% of stocks (shares) of which are managed by a petitioner on any grounds, as of the date of submitting a petition or a notification or a written statement that the petitioner does not manage stocks (shares) of commercial organisations;

13) a list of commercial organisations, over 5% of stocks (shares) of which are managed by a person that is the object of economic concentration on any grounds, as of the date of submitting a petition or a notification, or a written statement that the above person does not manage stocks (shares) of commercial organisations, or a written statement that the petitioner does not have such information;

14) a list of persons that manage on any grounds over 5% of stocks (shares) of a petitioner, as of the date of submitting a petition or a notification;

15) a list of persons that manage on any grounds over 5% of stocks (shares) of a person that is the object of economic concentration, as of the date of submitting the petition or the notification or a written statement that the petitioner does not have such information;

16) a list of persons included in the group of persons with the petitioner in the form approved by the federal antimonopoly body, specifying the characteristics upon which such persons are included in the group, as of the date of submitting a petition, and if submitting a notification – as of the last accounting date preceding the date of concluding a transaction, another action. The list of persons included in the group of persons with the petitioner comprises the persons controlled by the petitioner; the persons that control the petitioner; persons included in the same group of persons with the petitioner and exercising activities on the same goods markets, where the petitioner exercises activities, persons taking part in a merger, acquisition, and (or) a person that is the object of economic concentration, as well as persons under their control. The list of persons included in the group of persons with the petitioner does not comprise physical persons unless they are individual entrepreneurs and (or) are included in the same group of persons with an economic entity under the characteristics specified in Clauses 1 - 3, 5, 6 and 9 Part 1 Article 9 of this Federal Law;

17) a list of persons included in same group of persons with other persons specified in Articles 27 - 30 of this Federal Law, in the form approved by the federal antimonopoly body, specifying the characteristics upon which such persons are included in the group as of the date of submitting a petition, and if submitting a notification – as of the last accounting date preceding the date of concluding a transaction, another action or a written statement that the petitioner does not have such information. The list of persons included in the group of persons with other persons specified in Articles 27 - 30 of this Federal Law shall comprise persons taking part in a merger, acquisition, and (or) a person that is the object of economic concentration; persons that control the persons that take part in an acquisition, and (or) a person that is the object of economic concentration; persons that are controlled by a person that is the object of economic concentration; persons included in the group of persons with a person that is the object of economic concentration, and exercising activities on the goods markets where a petitioner and a person that is the object of economic concentration exercise activities, as well as persons under their control. The list of persons included in the group of persons with other persons specified in Articles 27 - 30 of this Federal Law shall not include physical persons that are not individual entrepreneurs and (or) included in the same group of persons with an economic entity under the characteristics specified in Clauses 1 - 3, 5, 6 and 9 Part 1 Article 9 of this Federal Law;

**18) information about persons, in the interests of whom nominal holders possess over 5% of petitioner's stocks (shares), including such persons registered in a state that offer preferential tax treatment and (or) the law of which does not provide for disclosing and submitting information about a legal entity (offshore zones);**

**19) a list of licenses of a person that is the object of economic concentration for exercising the types of activities specified in Article 6 of No.57-FZ Federal Law "On the Procedures of Foreign Investments in the Business Entities of Strategic Importance for National Defence and State Security" of 29<sup>th</sup> April 2008, or a written statement that the petitioner does not have such information;**

**20) a document confirming paying the state fee for making a decision on exercising transactions, other actions subject to state control.**

5(1). If the petitioner fails to present documents and information, specified in Part 5 of this Article, in full, the petition is not considered filed and the antimonopoly body shall inform the petitioner within ten days. The antimonopoly body shall keep the filed documents for fourteen days after the date when the petitioner received the notification; within this period the petitioner has a right to request the documents.

5(2). If a petitioner fails to submit copies of documents specified in Clause 4 Part 5 of this Article, confirming the right to exercise the types of activities (if to exercise them special permits are required under the law of the Russian Federation), the authorised bodies shall present information about such permits upon an inter-branch request by the antimonopoly authority.

5(4). If a petitioner fails to submit documents specified in Clauses 10 and 11 Part 5 of this Article, upon an inter-branch request by the antimonopoly authority the Central Bank of the Russian Federation, and the federal executive bodies regulating the market of financial services shall present financial-and-economic and other accounting (information included in them) of a petitioner or a person, whose stocks (shares), property and assets or the rights with regard to them are acquired.

**6. A petition for approving a merger between commercial organizations, acquiring one or several commercial organizations by a commercial organization, a merger between non-commercial organisations, acquiring one or several non-commercial organizations by a non-commercial organization, establishing a commercial organization or notification about it, shall be signed by the petitioner and other persons participating in the merger, acquisition or establishing, and notification about such mergers or acquisitions shall be signed only by the petitioner. Simultaneously with a petition or a notification the petitioner shall submit to the antimonopoly authority documents and information specified in Part 5 of this Article about other persons participating in merger, acquisition or establishing.**

7. The federal antimonopoly body approves the form of submitting information provided by Part 5 of this Article.

8. If transactions or other actions require preliminary consent of an antimonopoly body or subsequent notification of an antimonopoly body under several grounds, specified in Articles 27 - 31 of this Federal Law, such transactions, or other actions, are subject to agreement as a part of a single petition or a single subsequent notification.

**Article 33. Decision-Making on the Basis of Results of Examination of Application by the antimonopoly body, Issue of Determination to Applicant by the antimonopoly body.**

1. The antimonopoly body is obliged to examine the application provided by Article 32 of this Federal Law and to notify the applicant of the taken decision, specifying the reasons, in writing within 30 days from the date of receipt of application.

2. The antimonopoly body takes one of the following decisions on the results of examination of application for getting consent to exercise transaction, other action, subjected to state control:

1) on satisfaction of the application if transaction, other action declared in the application will not lead to restriction of competition;

2) on prolongation of the period of examination of application because of the necessity of its additional examination as well as of getting additional information for taking decision provided by Clauses 1, 3, 4 and 5 of the present Part on the results of examination of application, if it is established that declared in the application transaction, other action can lead to restriction of competition, including in the result of emerging or strengthening of dominant position of the person (a group of persons);

**3) on prolonging the period of examining a petition for approval of a merger between commercial organizations and (or) non-commercial organisations, acquiring one or several commercial organizations and (or) non-commercial organisations by a commercial organization and (or) a non-commercial organisation, establishing a commercial organization in the cases specified in Article 27 of this Federal Law, or of transactions provided for by Articles 28 and 29 of this Federal Law, in connection with defining conditions after fulfillment of which by the petitioner and (or) other persons participating in such merger, acquisition or establishing, the antimonopoly authority makes a decision to grant the petition and determines the period for fulfillment of these conditions which cannot exceed nine months. These conditions are an integral element of a decision to prolong the period for examining the petition;**

3<sup>1</sup>) on prolonging the period of examining a petition if a transaction, other action, stated in the petition are subject to a preliminary approval under No.57-FZ Federal Law “On the Procedures of Foreign Investments in the Business Entities of Strategic Importance for National Defence and State Security” of 29<sup>th</sup> April 2008 (further on referred to as the Federal Law “On the Procedures of Foreign Investments in the Business Entities of Strategic Importance for National Defence and State Security”), until the day of making a decision with regard to the transaction, another action in accordance with the Federal Law;

**4) on granting a petition for approving a transaction, another action, specified in Articles 27 - 29 of this Federal Law, and simultaneous issue of a determination provided for by Clause 2 Part 1 Article 23 of this Federal Law to a petition and (or) persons that are included in the petitioner’s group of persons, and (or) an economic entity, whose stocks (shares), property, assets and the rights with regard to whom are acquired, and (or) an established person, to exercise actions aimed at supporting competition if the above persons exercise the petitioned transaction, another action;**

5) on refusal to grant a petition if a transaction, another action declared in the petition leads or can lead to restriction of competition (in particular, as a result of emerging or strengthening of the dominant position of the person, which will be created as a result of completing the transaction, another action declared in the petition) and if in the process of examination of the filed documents the antimonopoly body finds that the information contained in the documents and significant for the decision-making is unreliable or if the petitioner has failed to submit available information, requested by the antimonopoly body, in the absence of which the antimonopoly body cannot make a decision on restriction of competition or on the absence of restriction of competition in relation to the petition in question;

6) on refusal to grant a petition if a decision was made not to grant preliminary consent for a transaction, another action, declared in the petition, in accordance with the Federal Law “On Procedures for Foreign Investments in Business Entities of Strategic Importance for the Russian National Defence and State Security”.

(Clause 6 is introduced by No.195-FZ Federal Law of 8<sup>th</sup> November 2008)

3. The period stated in Part 1 of this Article can be prolonged for the period not more than two months by decision provided for by Clause 2 of Part 2 of this Article. In case if such decision is taken the antimonopoly body posts on its official site in the Internet the information about the expected transaction, other action declared in the application for getting consent for implementation of transaction, other action. The interested persons have the right to submit to

the antimonopoly body the information about the influence of this transaction, other action on the condition of competition.

4. Decision on prolongation of the period of examination of application provided by Clause 3 of Part 2 of this Article is taken by the antimonopoly body in the case if merger between commercial organizations, joining to a commercial organization of one or several commercial organizations, creation of a commercial organization leads or can lead to restriction of competition including such as in the result of emerging or strengthening of the dominant position of person (group of persons) which will be created in the result of implementation of such actions.

5. The conditions provided by Clause 3 of Part 2 of this Article can contain the following with the aim of ensuring competition:

1) procedures of access to infrastructure, other production facilities or information managed by the applicant as well as by other persons Participating in merger between commercial organizations, joining to a commercial organization of one or several commercial organizations, creation of a commercial organization;

2) procedures of granting rights to facilities of industrial property protection which are managed by the applicant as well as by other persons Participating in merger between commercial organizations, joining to a commercial organization of one or several commercial organizations, creation of a commercial organization to other persons;

3) requirements to the applicant and (or) other persons Participating in merger between commercial organizations, joining to a commercial organization of one or several commercial organizations, creation of a commercial organization on transference of the property to the other person which is not included into one group of persons with the applicant and (or) other persons, on concession of rights of chose in action and (or) obligations of the mentioned applicant and (or) other persons to the other person which is not included into one group of persons with the mentioned applicant and (or) other persons;

4) requirements to the composition of a group of persons in which the applicant as well as other persons Participating in merger between commercial organizations, joining to a commercial organization of one or several commercial organizations, creation of a commercial organization are included.

6. After having complied with the conditions provided by Clause 3 of Part 2 of this Article the applicant submits documents confirming their implementation to the antimonopoly body. Within thirty days from the date of the documents receipt the antimonopoly body takes the decision to satisfy the application on merger between commercial organizations, joining to a commercial organization of one or several commercial organizations, creation of a commercial organization, **or for concluding a transaction provided for by Articles 28 and 29 of this Federal Law** if the submitted documents confirm the fulfillment of the conditions in time, otherwise the decision to refuse in satisfying the application is given.

7. An antimonopoly body grants a petition for consent to a transaction, another action, and simultaneously issues a determination, provided for by Clause 4 of Part 2 of this Article, if transactions, other actions declared in the petition lead or can lead to restriction of competition.

8. Decision of the antimonopoly body to grant permission for transactions, other actions is ceased to be effective if such transactions, other actions are not carried out within a year from the date of the said decision approval.

9. The persons obliged by Article 30 of this Federal Law to notify the antimonopoly body of implementation of transactions, other actions, subjected to state control, have the right before implementation of such transactions, other actions to request the antimonopoly body's consent for their implementation and the antimonopoly body is obliged to examine the applications in accordance with the procedure established by this Article.

10. In case if transactions, other actions provided by Article **30 and 31** of this Federal Law led or can lead to restriction of competition, including such as in the result of emerging or strengthening of the economic entity's dominant position in the market, the applicant submitted



to the antimonopoly body the relevant notification or a group of persons in which the applicant is included is obliged to fulfill actions, aimed at ensuring competition in accordance with the determinations of the antimonopoly body issued according to Clause 2 of Part 1 of Article 23 of this Federal Law.

**11. Upon a petition from a person, to whom a determination was issued in the cases specified by this Article, or upon own initiative, the antimonopoly authority can reconsider the content and the procedures for its execution due to emergence of substantial circumstances, that have emerged after the determination was issued and that exclude possibility and (or) expediency of executing the determination in full or a part of it. Substantial circumstances include changing product or geographic boundaries of a goods market, the composition of buyers or sellers, loss of dominant position by an economic entity. A petition to reconsider a determination must be considered by the antimonopoly authority within a month from the day when it was received. The procedures for reconsidering a determination shall be established by the antimonopoly authority. Changing a determination should not deteriorate the position of the person to whom the determination is issued.**

**Article 34. Consequences of Violation of the Procedure of Getting the antimonopoly body's Preliminary Consent for Implementation of Transactions, Other Actions as Well as the Procedure of Submitting to the antimonopoly body of Notifications About Transactions, Other Actions Subjected to Control**

1. A commercial organization founded without preliminary consent of the antimonopoly body, including organization appeared as the result of merger or joining of commercial organizations in the cases stated in Article 27 of this Federal Law is liquidated or reorganized in the way of separation or detachment at law on the antimonopoly body's claim if its foundation led or can lead to restriction of competition, including such as in the result of emerging or strengthening of the dominant position.

2. Transactions, other actions stated in Articles 28 and 29 of this Federal Law, which were exercised without preliminary consent of the antimonopoly body are recognized invalid at law on the antimonopoly body's claim if these transactions or other actions led or can lead to restriction of competition, including such as in the result of emerging or strengthening of the dominant position.

3. Commercial organization, which is obliged to notify the antimonopoly body about implementation of transactions, other actions stated in Clauses 1 – 4 of Part 1 of Article 30 of this Federal Law, and which violated the procedure of notification of the antimonopoly body about implementation of such transactions, other actions is liquidated or reorganized by means of separation or detachment at law on the antimonopoly body's claim if these transactions, other actions led or can lead to restriction of competition, including such as in the result of emerging or strengthening of the dominant position.

4. If transactions, other actions stated in Clause 5 of Part 1 of Article 30 **and in Article 31** of this Federal Law were settled with violation of the order of notification of the antimonopoly body these transactions, other actions are recognized invalid at law on the antimonopoly body's claim if these transactions, other actions led or can lead to restriction of competition, including such as in the result of emerging or strengthening of the dominant position.

5. Noncompliance with determinations of the antimonopoly body, issued in accordance with the procedure provided by Clause 4 of Part 2 of Article 33 of this Federal Law is the reason for recognition these transactions invalid at law on the antimonopoly body's claim.

6. Noncompliance with determinations of the antimonopoly body, issued in accordance with the procedure provided by Article 33 of this Federal Law, other violations of the requirements of Articles 27 – 32 of this Federal Law alongside with the consequences indicated

in this Article involves administrative responsibility in the cases established by the Russian Federation legislation on Administrative Offences.

### **Article 35. State Control Over Agreements Restricting Competition of Economic Entities**

1. Economic entities intending to conclude an agreement which can be recognized permissible in accordance with this Federal Law have the right to apply a written application to the antimonopoly body to verify compliance of the draft agreement with the requirements of the antimonopoly legislation.

2. Economic entities intending to conclude an agreement submit to the antimonopoly body documents and information according to the list approved by the federal antimonopoly body together with the application.

3. The antimonopoly body takes a decision whether the draft agreement in written form complies with the antimonopoly law or not within 30 days from the date of submitting of all required information necessary for examination of the application.

**3(1). If documents and information required to consider a petition are not submitted in full, the petition shall be considered unfiled, of which the antimonopoly authority shall inform a petitioner within ten days from the day when the petition was received. The period for keeping the filed documents by the antimonopoly authority, during which the petitioner can request them, is 14 days from the date when the petitioner received the notice.**

4. The basis for taking decision on non-compliance of the draft agreement in written form with the antimonopoly legislation is:

**1) the conditions provided by Parts 1 – 4 Article 11 of this Federal Law in the absence of the grounds for recognising the draft agreement acceptable in accordance with Article 12 or 13 of this Federal Law;**

2) unreliability of the information containing in the documents as well as other information important for decision-making, provided by the economic entity;

3) a failure to provide information and documents provided by Part 2 of this Article.

5. If necessary, the period of consideration of the application stated in Part 1 of this Article may be extended by the antimonopoly body, but not longer than for twenty days. The antimonopoly body shall notify the applicant in writing of extending the period of consideration of the application, specifying the reasons for the extension.

6. Decision of the antimonopoly body concerning compliance or non-compliance of a draft agreement in written form with the antimonopoly law shall expire if such agreement has not been concluded within one year from the date of adoption of the relevant decision.

7. The antimonopoly body has the right issue a determination aimed at ensuring of competition to Participants in an agreement alongside with the decision concerning the compliance of the draft agreement in written form with the antimonopoly law.

8. The antimonopoly body has the right to cancel its decision concerning the compliance of a draft agreement in written form with the antimonopoly legislation in the cases if:

1) it was established after the decision had been taken that the information presented for examination by the economic entity intending to conclude an agreement was unreliable;

2) the economic entities intending to conclude an agreement fail to fulfill the determination of the antimonopoly body provided by Part 7 of this Article;

3) the conditions that constituted the grounds for recognising the draft agreement acceptable in accordance with Article 12 or 13 of this Federal Law have changed.

9. Economic entities that concluded an agreement on the basis of a decision of the antimonopoly authority that a written draft agreement complies with the antimonopoly law, must terminate the agreement within a month as of the date when any of them received a reasoned decision made by the antimonopoly authority under Clause 3 Part 8 of this Article to cancel the decision that the written draft agreement complied with the antimonopoly law. A decision of the antimonopoly authority to cancel a decision that a written draft agreement complied with the antimonopoly law can be made if market shares of the participants of the agreement have changed and also if participants of the agreement have failed to observe its terms and conditions.

## **Chapter 8. Responsibility for Violation of the Antimonopoly Legislation**

### **Article 36. Obligation to Fulfill Decisions and Determinations of an Antimonopoly Body**

Commercial organizations and non-commercial organizations (their officials), federal executive authorities of the Russian Federation (their officials), bodies of public authority of the Subjects of the Russian Federation (their officials), bodies of local self-government (their officials), other bodies or organizations exercising the functions of the above-mentioned bodies, as well as public extra-budgetary funds (their officials), physical persons, including individual entrepreneurs, are obliged to fulfill decisions and determinations of the antimonopoly body within the period established by such decisions and determinations.

### **Article 37. Responsibility for Violation of the Antimonopoly Legislation**

1. Officials of federal executive authorities, public authorities of the subjects of the Russian Federation, bodies of local self-government, other institutions or organizations discharging the functions of the aforementioned authorities or bodies of local self-government, officials of other bodies or organizations exercising the functions of the above-mentioned bodies, as well as officials of public extra-budgetary funds, commercial and noncommercial organizations and their officials, physical persons, including individual entrepreneurs bear responsibility provided for by legislation of the Russian Federation

2. Imposing responsibility on persons stated in Part 1 of this Article do not exempt them from the duty to fulfill the decision and determination of the antimonopoly body, to submit to the antimonopoly body application or notices for examination or carry out other actions provided by the antimonopoly legislation.

**3. Persons whose rights and interests are infringed as a result of violating the antimonopoly law, can file lawsuits under the established procedures, particularly, lawsuits to restore the violated rights, including lost profit, compensation of harm caused to property.**

### **Article 38. Forced Division or Separation of Commercial Organizations as well as Non-commercial Organizations Exercising Profit Generating Activity**

1. In case of systematic implementation of monopolistic activity by commercial organization occupying dominant position as well as noncommercial organization exercising profit generating activity, the court on the claim of the antimonopoly body (on the claim of the antimonopoly body in coordination with the Central Bank of the Russian Federation with regard

to a credit organization) has the right to take decision on forced division of such organizations or decision on separation of one or several organizations from them. Organizations created in the result of forced separation cannot be included in one group of persons.

2. Court decision on forced division of commercial organization or on separation of one or several organizations from it is taken with the aim of development of competition, if in aggregate the following conditions are fulfilled:

1) possibility of separation of structural units of the commercial organization;  
 2) absence of technologically conditioned interconnection between structural units of the commercial organization (specifically, if thirty or less percent of overall volume of products (works, services) produced by its structural unit is consumed by the other structural units of this commercial organization);

3) possibility of independent operation in the relevant goods market for legal persons created in the result of this reorganization.

3. Court decision on forced division of commercial organization or on separation of one or several organizations from it as well as on such division or separation of noncommercial organization exercising profit generating activity shall be fulfilled by the owner or the latter's authorized representative agency, taking into consideration requirements provided by the stated decision and within the period determined by it, which can not be less than six months.

## **Chapter 9. Consideration of Cases on Violating the Antimonopoly Legislation.**

### **Article 39. Grounds for Initiating a Case on Violating the Antimonopoly Legislation, Location of Examination of the Case, and the Consequences of Revealing the Signs of an Administrative Offence in Course of Case Examination**

1. The antimonopoly body initiates and reviews the cases of violation of the antimonopoly legislation, adopts decisions on these cases and issues determinations based on these decisions within the frames of its authorities

2. Basis for initiation and review of the cases of violation the antimonopoly legislation (further on referred to as the case) by the antimonopoly body are:

1) receipt of documents (further on referred to as documents) indicating the signs of violation of the antimonopoly legislation from state bodies or bodies of local self-government;

**2) a petition from a legal person or a physical person denoting signs of violating the antimonopoly law (further on referred to as a petition);**

3) detection by the antimonopoly body of the signs of violation of the antimonopoly legislation;

4) mass media reports, natural and legal persons' reports pointing out the signs of violation of the antimonopoly legislation

5) findings of an inspection, that revealed the facts of violating the antimonopoly legislation by commercial organizations, noncommercial organizations, federal executive bodies, the authorities of the constituent territories of the Russian Federation, local self-government bodies, other agencies or organizations exercising the functions of the above bodies, and state extra-budgetary funds.

3. A case on violating the antimonopoly legislation can be considered by the antimonopoly body of the territory where the violation was committed or at the location (residence) of the person against whom the complaint about the antimonopoly violation is lodged. The federal antimonopoly body can process the above case regardless of the location where the violation was committed or the location or place of residence of the person against whom the claim or materials are filed.

4. The rules of passing applications, documents and cases of violation of the antimonopoly legislation by the antimonopoly body to another antimonopoly body for

examination are established by the federal antimonopoly body.

5. If in the course of examination of the case of violation of the antimonopoly legislation the antimonopoly body reveals circumstances indicating the presence of administrative violation, the antimonopoly body initiates a case of administrative violation in accordance with the procedures established by the law on Administrative Offences of the Russian Federation.

#### **Article 39(1). Warning on Stopping Actions (Omissions) that Have Signs of Violating the Antimonopoly Law**

1. To suppress actions (omissions) that lead or can lead to preventing, restricting, eliminating competition, the antimonopoly authority shall issue a written warning to an economic entity that has dominant position to stop actions (omissions) have signs of violating the antimonopoly law, to eliminate the causes and conditions facilitating emergence of the violation and to take measures towards eliminating the consequences of the violation (further on referred to as a warning).

2. A warning shall be issued to an economic entity that has dominant position if signs are revealed of violating Clauses 3 and 5 Part 1 Article 10 of this Federal Law. The antimonopoly authority is not allowed to make a decision to initiate a case on violating Clauses 3 and 5 Part 1 Article 10 of this Federal Law without issuing a warning and before expiry of the period for its execution.

3. In course of investigating a case on violating the antimonopoly law a warning is issued by a commission that investigates the antimonopoly case if in course of the case investigation the signs are revealed of violating Clauses 3 and 5 Part 1 Article 10 of this Federal Law, that were not known at the moment of initiating the case.

4. A warning must include:

- 1) the conclusions on the grounds for issuing the warning;
- 2) the norms of the antimonopoly law that were violated by actions (omissions) of the person to whom the warning is issued;
- 3) the list of actions aimed at stopping the violation of the antimonopoly law, eliminating the causes and conditions that facilitated emerging of the violation, eliminating the consequences of the violation and a reasonable period for their execution.

5. A warning must be considered on a mandatory basis by the person to whom it is issued within the period specified in the warning. The period for executing a warning must be no less than ten days. Upon a reasoned petition of the person to whom the warning is issued, and if there are sufficient grounds to believe that the warning cannot be executed within the established period, this period can be extended by the antimonopoly authority.

6. The antimonopoly authority must be informed about executing a warning within three days from the day of expiry of the period set for executing the warning.

7. If a warning is executed, an antimonopoly case shall not be initiated and the person that executed the warning shall not be subject to administrative liability for violating the antimonopoly law due to its elimination.

8. If a warning is not executed within the established period where there are signs of violating the antimonopoly law, the antimonopoly authority shall make a decision to initiate a case on violating the antimonopoly law.

9. The procedures for issuing a determination shall be approved by the federal antimonopoly body.

#### **Article 40. The Commission for Review of the Cases on Violating the Antimonopoly Legislation**

1. For examination of each case of violation of the antimonopoly legislation, the antimonopoly body establishes a Commission for examination of the case of violation of the

antimonopoly legislation (referred to further on to as the Commission) in accordance with the procedures provided by this Federal Law. The Commission speaks in the name of the antimonopoly body. The membership and the chairman of the Commission are approved by the antimonopoly body.

2. The Commission consists of employees of the antimonopoly body. **The Head of the antimonopoly body, Deputy Head or the Head of a structural unit of the federal antimonopoly body can be a chairman of the Commission.** The number of the Commission members must be not less than three. A member of the Commission can be substituted on the basis of the antimonopoly body's motivated decision.

3. For examination of the case of violation of the antimonopoly legislation by a credit organization in the banking services market representatives of the Central Bank of the Russian Federation should be included in the Commission on a permanent basis and should compose a half of the members.

4. For examination of the case of violation of the antimonopoly legislation by financial organizations (except credit organizations) having license issued by the federal body of executive authority on securities market representatives of the mentioned body should be included in the Commission and should compose a half of the members.

5. Number of members (including the Chairman) of the Commission on examination of the cases of violation of the antimonopoly legislation stated in Parts 3 and 4 of this Article should be even.

6. The Commission is eligible to examine the case of violation of the antimonopoly legislation if not less than fifty percent of the whole number of members of the Commission are present at the session but not less than three members of the Commission.

**6(1). In the absence of quorum for examining a case on violating the antimonopoly law, members of the Commission present at a meeting shall make a decision to postpone the examination of the case and to schedule a new date for case examination, which shall be documented by an intermediate order.**

7. Questions arising in the process of examination of the case of violation of the antimonopoly legislation should be solved by a majority vote. In case of equal spread of affirmative and negative votes the Commission chairman has a casting vote. The members of the Commission have no right to abstain from vote, the chairman of the Commission votes the last.

#### **Article 41. Acts Adopted by the Commission**

1. The Commission passes **warnings**, orders, decisions, and determinations.

2. Upon the completion of the review of the case of violation of the antimonopoly legislation the Commission adopts decision at its session. Decision of the Commission is presented as a separate document and is signed by all members of the Commission present at the session where the decision has been taken. A member of the Commission who disagrees with the Commission's decision is obligated to sign the act adopted by the Commission **and can present a special opinion in a written form, which shall be enclosed to the case materials in a sealed envelope and shall not be disclosed.** A decision of the Commission is made in one copy which is joined to the case papers.

3. Decision on the case of violation of the antimonopoly legislation contains:

- 1) conclusions about presence or lack of grounds for dismissal of the case;
- 2) conclusions about presence or lack of violation of the antimonopoly legislation in the actions (lack of action) of the defendant;
- 3) conclusions about presence or lack of grounds for issuing determination and a list of obligatory actions, included in the determination;
- 4) conclusions about presence or lack of grounds for taking other measures for ceasing violation of antimonopoly legislation and (or) reverting its consequences, ensuring competition (including such measures as appeal to court, documents' transfer to the law machinery,

recommendations on the actions aimed at development and ensuring of the conditions for competition given to the authority bodies and bodies of local self-government by the antimonopoly body.

5) conclusions about the cases for violating the antimonopoly legislation, made on the basis of the circumstances, established by an antimonopoly body upon analyzing the state of competition, except cases, to process which such analysis is not mandatory.

4. The Commission issues a determination on the basis of the decision. Determination is made out like a separate document for each person who is obliged to fulfill the actions determined in the decision within the period established in the determination, and it is signed by the chairman and members of the Commission presenting at the meeting

5. Chairman of the Commission or the Commission pronounces an order in the cases mentioned in this Article. The order is presented as a separate document, signed by the chairman and the members of the Commission and sent to the persons participating in the case as well as to other persons in the cases stated in this Article.

6. Templates of acts adopted by the Commission are approved by the federal antimonopoly body.

#### **Article 41(1). Period of Limitation for the Cases on Violating the Antimonopoly Legislation**

A case on violating the antimonopoly legislation cannot be initiated and an open case should be closed on expiration of three years after the violation of the antimonopoly legislation was committed, and in case of an ongoing violation of the antimonopoly legislation – after the date the violation was stopped or discovered.

#### **Article 42. Persons Participating in Violation of the Antimonopoly Legislation Case**

1. Persons participating in the violation of the antimonopoly legislation case are:

1) petitioner– is the person who submitted a petition, a state body or a local self-government body which sent the documents;

2) defendant – is the person regarding to who the application was submitted and documents were sent, or in whose actions (lack of action) the antimonopoly body found the signs of the antimonopoly law violation. The mentioned persons are recognized as defendants in the case of violation of the antimonopoly legislation from the moment of initiation of the proceedings;

3) interested persons – are the persons on whose rights and legitimate interests influence examination of the case of violation of the antimonopoly legislation.

2. The persons participating in examination of the case of violation of the antimonopoly legislation have the right to exercise their rights and obligations by themselves or through their representative.

3. If during examination of the case of violation of the antimonopoly legislation the Commission establishes that the actions (lack of action) of a person other than the defendant contain the elements of violation of the antimonopoly legislation, the Commission has the right to impose liability on such person as a defendant or the second defendant in the case. If the Commission fails to find the fact of violation of the antimonopoly legislation in the actions of one of the defendants, the Commission issues order on termination of the person's Participation in the case examination. Copy of the order on termination of the person's Participation in the case examination is immediately sent to the persons participating in the case.

4. In the course of examination of the case of violation of the antimonopoly legislation the Commission has the right to involve experts, translators as well as persons obtaining information about the circumstances examined by the Commission and are not the persons

Participating in the case. The mentioned above persons are not persons participating in the case. The Commission issues order on involvement of experts, translators as well as persons obtaining information about the circumstances examined by the Commission to the examination of the case and sends them copies of the order within three days since the date of the order's issuance.

#### **Article 43. The Rights and Obligations of Persons Participating in a Case on Violating the Antimonopoly Legislation**

1. From the moment of initiating the violation of the antimonopoly legislation case persons Participating in the case have the right to familiarize themselves with the materials of the case, to make abstracts from them, to give evidence and to familiarize themselves with the evidence, to put questions to the other Participants, to enter petitions, to give written and oral explanations to the Commission, to present their arguments on all questions arising in the course of examination of the case, to familiarize themselves with the petitions entered by the other persons, to object to the other Participants' of the case petitions, arguments.

**2. In course of a case examination, persons, taking part in the case, have the right to record the case examination in writing as well as using the means of audio-recording. If in course of case examination information is announced that constitutes a legally protected secret, the chairman of the commission can make a decision to prohibit persons taking part in the case to make an audio-record of the case examination.**

**3. Photographing, video-recording of a case examination, radio and TV broadcasting of the case examination are allowed upon permission by the chairman of the commission.**

**4. Persons, taking part in a case, must bona fide use their rights in course of the case examination.**

#### **Article 44. Examining a Petition, Materials and Initiating a Case on Violating the Antimonopoly Law**

1. A petition must be filed in writing to the antimonopoly authority and must contain the following information:

1) information about a petitioner (the family name, first name, patronymic and the address of the place of residence for a physical persons; the name and location for a legal entity);

2) information available to a petitioner about the person against whom a petition is filed;

3) a description of a violation of the antimonopoly law;

4) the essence of the petitioner's claim;

5) a list of enclosed documents.

2. A petition should be accompanied by documents giving evidence of the signs of violating the antimonopoly law (further on referred to as the documents). If it is impossible to submit the documents, a petitioner should specify the reason why it is impossible to submit the documents as well as indicate a person or a body from whom the documents supposedly can be obtained.

3. If a petition or materials do not contain information specified in Parts 1 and 2 of this Article, the antimonopoly authority leave the petition or materials without consideration, of which it informs the petitioner in writing within ten working days from the day when they were received.

4. The antimonopoly authority shall consider a petition or materials within one month from the day when they were received. If evidence is insufficient or there is not evidence enabling the antimonopoly authority to arrive to a conclusion about presence or absence of the signs of violating the antimonopoly law, the antimonopoly authority can extend the period for considering a petition or materials to collect and analyse additional



evidence, but for no longer than two months. The antimonopoly authority shall inform a petitioner in writing about extending the period for considering a petition or materials.

5. Considering a petition or materials the antimonopoly body:

1) determines, whether considering a petition or materials falls within its scope of reference;

2) establishes, whether there are signs of violating the antimonopoly law, and determined the norms that should be applied.

6. Considering a petition or materials the antimonopoly authority can request commercial organisations and non-commercial organisations, their executives, federal executive bodies, their officers, the authorities of the constituent territories of the Russian Federation, their officers, local self-government bodies, their officers, other bodies and organisations exercising the functions of the above bodies, their officers, as well as state extra-budgetary funds, their officers, physical persons, in particular, individual entrepreneurs, in compliance with the law of the Russian Federation on state secrets, bank secrets, commercial secrets or other legally protected secrets, to submit documents, information, explanations in written or oral forms, related to the circumstances described in the petition or materials.

7. Considering a petition, materials indicating signs of violating Article 10 of this Federal Law, the antimonopoly authority shall establish if an economic entity against which the petition, materials are filed, has dominant market position, except if the antimonopoly authority makes a decision not to initiate the case on violating the antimonopoly law on the grounds provided for by Part 9 of this Article.

8. Upon the results of considering a petition, materials, the antimonopoly authority shall make one of the following decisions:

1) to initiate a case on violating the antimonopoly law;

2) to refuse initiating a case on violating the antimonopoly law.

9. The antimonopoly authority shall make a decision to refuse to initiate a case the following instances:

1) the issues outlined in a petition, materials do not fall within the scope of reference of the antimonopoly authority;

2) there are no signs of violating the antimonopoly law;

3) a case was initiated earlier upon the fact that constituted the grounds for filing the petition;

4) a decision of the antimonopoly authority came into force upon the fact that constituted the grounds for filing the petition, materials, except if there is a decision of the antimonopoly authority to refuse to initiate a case on violating the antimonopoly law under Clause 2 of this Part or a decision to terminate case consideration under Clause 2 Part 1 Article 48 of this Federal Law and the petitioner presents evidence of violating the antimonopoly law unknown to the antimonopoly authority as of the date of making the decision;

5) the period of limitation, provided for by Article 41(1) of this Federal Law, expired for the fact that constituted the grounds for filing a petition, materials;

6) absence of violating the antimonopoly law in the actions of a person, against whom a petition, materials were filed, is established by a court judgment or a judgment of an arbitration court that has come into force;

7) signs of violating the antimonopoly law are eliminated as a result of executing a warning issued in accordance with the procedures specified in Article 39<sup>1</sup> of this Federal Law.

10. The antimonopoly authority shall send a decision not to initiate a case on violating the antimonopoly law to a petitioner within the period established in Part 3 of this Article, specifying the grounds for making this decision.

**11. Making a decision upon the results of considering a petition, materials can be postponed if the antimonopoly authority, a court of law, an arbitration court, the law enforcement bodies are considering another case, conclusion on which will matter for the results of considering the petition, materials, until the relevant decision on the case is made and comes into effect, of which the antimonopoly authority shall inform the petitioner in writing.**

**12. If a decision is made to initiate a case on violating the antimonopoly law, the antimonopoly authority shall issue an order to initiate the case and form a commission. A copy of the order shall be forwarded to the petitioner and the respondent to the case within three days from the day of issuing the order.**

**13. Within 15 days from the day of issuing the order to initiate a case on violating the antimonopoly law, the chairman of the commission shall issue an intermediary order to examine the case and send copies of the intermediary order to the persons taking part in the case.**

#### **Article 45. Examining a Case on Violating the Antimonopoly Legislation**

1. A case on violating the antimonopoly legislation is examined by the Commission within three months period from the date of issuing the order to initiate proceedings. In some cases involving a necessity of getting more information by the antimonopoly body as well as in the cases established in this Chapter the mentioned period may be prolonged by the Commission but not longer than for six months. The Commission issues an order about prolongation of the period of the case examination and sends copies of the order to the persons participating in the case.

2. Examination of the case of violation of the antimonopoly legislation is exercised at the Commission session. Persons participating in the case should be notified about time and place of its examination. If the persons participating in the case were duly informed about the time and place of the case examination but failed to attend the session, the Commission has the right to consider the case in their absence. During the case examination the minutes, which are signed by the Commission Chairman, are kept. The Commission has the right to take shorthand or audio record of the session, making an entry about it in the minutes.

3. The Chairman of the Commission:

- 1) opens the session;
- 2) announces the list of the Commission members;
- 3) announces the case subjected for examination, checks the appearance of persons Participating in the case at the Commission session, considers their authorizations, establishes whether the persons who failed to appear at the session were duly notified and that information concerning the reason of their non-appearance is available;
- 4) ascertains the possibility of consideration of the case;
- 5) explains their procedural rights and liabilities to the persons participating in the case, establishes the sequence of holding procedural actions;
- 6) directs the Commission session, ensures conditions for comprehensive and complete examination of evidence and circumstances of the case, and ensures consideration of applications and presentations of the persons participating in the case;
- 7) takes measures to ensure proper order at the Commission session.

4. At the Commission session the members:

- 1) hear the persons Participating in the case;
- 2) hear and discuss the petitions, adopt decisions on the petitions which are reflected in the minutes of the session;
- 3) examine the evidence;
- 4) hear opinions and explanations of the persons participating in the case concerning the evidence presented by the persons participating in the case;

5) hear and discuss the position of experts and specialists attracted with the purpose of making conclusions;

6) hear the persons disposing of information concerning the circumstances of the case under examination;

7) on application of the persons participating in the case or on the Commission initiative the questions about the necessity to make a recess in the session, to postpone or to stay an action are discussed.

5. During the consideration of the case of violation of the antimonopoly legislation the Commission has the right to require from the persons participating in the case documents and information, written and oral explanations on the questions arising in the course of examination, to attract other persons to Participation in the case.

6. Having examined the case evidence, presentation of position of the persons Participating in the case, conclusions of experts and specialists, questioning of the persons disposing of factual evidence on the circumstances examined by the Commission, the Commission chairman announces the conclusion of the case examination and asks the persons Participating in the case and other persons assisting in the case examination to leave so that the Commission takes a decision.

#### **Article 46. A Recess in the Session of the Commission**

1. On application of the persons Participating in the case of violation of the antimonopoly legislation or on its own initiative the Commission has the right to announce a recess in the session for a period not exceeding seven days.

2. Examination of the case of violation of the antimonopoly legislation by the Commission after the recess is continued from the moment where it was interrupted. A repeated examination of the evidence considered before the recess in the Commission session is not conducted.

#### **Article 47. Postponement and Suspension of Examination of a Case of Violation of the Antimonopoly Legislation**

1. The Commission has the right to postpone the examination of the case of violation of the antimonopoly legislation:

1) on petition of a Party to the case in connection with impossibility of this person or his/her representative appearance at the Commission session for a valid reason, confirmed by relevant documents;

2) in connection with the necessity to obtain complementary evidence;

3) for attracting to Participation in the case of persons assisting the case consideration and other persons, whose Participation is considered necessary by the Commission;

4) if in the course of examination it is established that in the actions (inactions) of the defendant there are elements of some other violation of the antimonopoly law than the violation that is examining;

5) in other cases provided by this Article.

2. If the case of violation of the antimonopoly legislation is postponed the running of the term of the case examination is not interrupted. The examination of the case at a new session after the recess is continued by the Commission from the moment where it was interrupted.

3. The Commission can suspend examination of the case of violation of the antimonopoly legislation in the case and for the period of:

1) examination by the antimonopoly body, the court, investigative authorities of another case, the conclusions on which would be significant for examination of the case of violation of the antimonopoly legislation;

2) making an expert examination.

4. The running of the term of examination of the case of violation of the antimonopoly legislation is interrupted for the period of suspension of the case examination, and resumes from the moment of the case resumption. The examination of the case resumes from the moment at which it was suspended

5. The Commission issues a order about postponement, suspension or resumption of examination of the case of violation of the antimonopoly legislation as well as about making an expert examination a copy of which is sent to the persons Participating in the case within three days period from date of its issue. Copy of the order about an expert examination is also sent to the expert within three days period from date of its issue.

#### **Article 47(1). Consolidating or Separating Cases on Violations of the Antimonopoly Legislation**

1. For the purposes of full, comprehensive and objective consideration of cases, an antimonopoly body, upon petitions of the persons participating in the case, or upon its own initiative, according to the procedures established by the antimonopoly body, can consolidate two and more cases on violating the antimonopoly legislation, and also separate one or several cases.

2. The antimonopoly body shall make a definition on consolidating or separating cases.

3. Membership of the Commission for consideration of consolidated or separated cases shall be determined by an order of the antimonopoly body.

#### **Article 48. Dismissal of the Case of Violation of the Antimonopoly Legislation**

1. The Commission terminates the legal proceedings of the case of violation of the antimonopoly legislation in the following cases:

1) voluntary elimination of violation of the antimonopoly legislation and its consequences by the person who has committed the violation;

2) absence of violation of the antimonopoly legislation in the examined by the Commission actions (lack of action);

3) liquidation of the legal person – the only respondent in the case;

4) death of a physical person – the only one respondent in the case;

5) ) if there is a legal act which came into force where there are conclusions on presence or absence of violation of the antimonopoly legislation in the actions (lack of action) which are the subject of the consideration in the case.

**6) a decision of the antimonopoly body on establishing the fact of violating the antimonopoly law came into force with regard ot actions (omissions) considered by the commission;**

**7) expiry of the period of limitation provided for by Article 41(1) of this Federal Law.**

2. The Commission adopts the decision to stop the legal proceedings of the case of violation of the antimonopoly legislation in accordance with the requirements established by Article 41 of this Federal Law. If the proceedings are terminated under Clause 1 Part 1 of this Article, the substantive part of the decision to terminate the proceedings must include information on establishing the fact of violation the antimonopoly legislation by the defendant(s).

#### **Article 49. Adoption of a Decision on a Case of Violation of the Antimonopoly Legislation by the Commission**

1. In course of adopting decisions the Commission:

1) assesses evidence and arguments submitted by the persons participating in the case;

- 2) assesses conclusions and explanations of experts as well as of persons disposing of factual evidence about the circumstances considered by the Commission;
- 3) determines the norms of the antimonopoly or other legislation of the Russian Federation which were violated by the actions (lack of action) examined by the Commission;
- 4) establishes rights and obligation of the persons participating in the case;
- 5) decides question about issuing determinations and about their content, as well as of the necessity to exercise other actions aimed at elimination and (or) prevention of the antimonopoly law violation, including the question of sending materials to the law enforcement agencies, referring a claim to court, sending proposals and recommendations to the authority body and local government bodies.

**2. The resolute part of a decision on a case on violating the antimonopoly law is to be declared after the case examination is completed; it must be signed by all members of the commission that took part in the case examination, and must be attached to the case. The decision should be formulated in full within ten working days from the day of declaring the resolute part of a decision. Copies of the decision shall be immediately send or handed over to the persons taking part in the case. The date when the decision was formulated in full, is considered the date when the decision was made.**

#### **Article 50. Determinations on the Case of Violation of the Antimonopoly Legislation**

1. On the results of examination of the case of violation of the antimonopoly legislation and on the basis of the decision the Commission issues determinations to the defendant in the case.
2. The determination on the case of violation of the antimonopoly legislation is made out simultaneously with the decision. Copy of the determination is immediately sent or presented to the person, to whom it is prescribed to fulfill the actions determined in the decision

#### **Article 51. Fulfillment of the Determination on the Case on Violating the Antimonopoly Legislation. Consequences of Non-Fulfillment of the Determination on Transferring the Revenue, Gained by Monopolistic Activity or Unfair Competition, to the Federal Budget**

1. The determination on the case of violation of the antimonopoly legislation is subjected to be fulfilled within the period specified in it. The antimonopoly body exercises control over fulfillment of its determinations.
2. The failure to fulfill determination on the case of violation of the antimonopoly legislation in time entails administrative responsibility.
3. A person, whose actions (lack of action) in accordance with the procedures established in this Federal Law is recognized as monopolistic activity or unfair competition and are impermissible according to the antimonopoly legislation is obliged to transfer to the federal budget the revenue received from these actions (lack of action) according to the determination of the antimonopoly body. In the case of failure to fulfill determination the revenue received from the monopolistic activity or unfair competition is subjected to collecting into the budget at the suit of the antimonopoly body.
4. Partial fulfillment of the determination within the established period or deviation from fulfillment or belated fulfillment of the determination is implied under the failure to fulfill determination on the case of violation of the antimonopoly legislation in time. Failure to meet the deadline for determination constitutes a violation of the antimonopoly legislation.
5. The Commission can extend the deadline for fulfilling a determination on the antimonopoly case for no more than six months upon a reasonable petition of the defendant(s), if the reasons indicated in the petition are found valid. The petition for extending the deadline of

such a determination must be forwarded to the antimonopoly body no later than twenty working days before the deadline for fulfilling the determination.

6. A definition on extending the deadline for fulfilling the determination or on refusal to extend the deadline shall be signed by the Chairman and members of the Commission and within ten working days after the petition was received shall be sent to the defendant(s) on the case by registered mail with notification of delivery or handed over to their representatives against receipt.

7. If the defendant(s) on the case are held administratively liable for failure to meet the determination deadline, within five working days after the date when the resolution on administrative sanctions was passed the Commission shall make a definition on a new deadline for fulfillment of the earlier issued determination. The definition shall be signed by the Chairman and members of the Commission and sent to the defendant(s) or their representatives by registered mail with notification of delivery or handed over against receipt.

**Article 51(1). Explaining a Decision and (or) a Determination on a Case on Violating the Antimonopoly Law. Correcting Slips of the Pen, Misprints and Arithmetic Errors**

**1. A commission that made a decision and (or) a determination on a case on antimonopoly violation, upon a petition from a person that takes part in the case, or upon one's own initiative, can give explanations about the decision and (or) the determination without changing its content, as well as correct slips of the pen, misprints and arithmetic errors in the decision and (or) the determination.**

**2. A commission shall issue an intermediate order on the issues of explaining a decision and (or) a determination, correcting slips of the pen, misprints and arithmetic errors.**

**3. A commission shall forward an intermediate order on the issues of explaining a decision and (or) a determination, correcting slips of the pen, misprints and arithmetic errors to the persons that take part in the case within three working days from the day when the intermediate order was issued but no later than within 15 working days from the day when the petition was received.**

**Article 51(2). Reconsideration of a Decision and (or) a Determination on a Case on Antimonopoly Violation upon New and (or) Newly Discovered Circumstances**

**1. A decision and (or) a determination issued on its basis on a case on violating the antimonopoly law can be reconsidered upon new and (or) newly discovered circumstances by a commission that made the decision and (or) issued the determination upon a petition of a person that takes part in the case, as well as if a commission established the grounds provided for by this Article for reconsidering a decision and (or) a determination.**

**2. The grounds for reconsidering a decision and (or) a determination issued on its basis on a case on violating the antimonopoly law are:**

**1) revealing circumstances that were not and could not be known as of the date of announcing the resolute part of the decision on a case but have substantial significance for correct solution of the case;**

**2) Evidence tampering, intentional misrepresentation by a person that have information about the circumstances of the case, a deliberately misleading expert conclusion, knowingly incorrect translation that resulted in making unlawful or unreasonable decision and (or) issuing a determination on its basis.**

**3. A petition to reconsider a decision of the antimonopoly authority and (or) a determination issued on its basis on a case on violating the antimonopoly law upon new and (or) newly discovered circumstances is to be filed to the antimonopoly body, a commission of which made such a decision and (or) a determination by persons that take part in the**

case, within three months from the day when they found out or should have found out about the circumstances that constitute the grounds for reconsidering the decision and (or) the determination.

4. Upon a request of the person that filed a petition, a missed deadline for filing a petition can be revived by the antimonopoly authority provided that the petition was filed within six months from the day of establishing the grounds for reconsidering the decision and (or) the determination and the antimonopoly authority finds the reasons for missing the deadline as valid.

5. The form and content of a petition to reconsider a decision made by the antimonopoly authority and (or) a determination issued on its basis are determined by the federal antimonopoly body.

6. The antimonopoly authority shall return to a petitioner a filed petition about reconsidering a decision made by the antimonopoly authority and (or) a determination issued on its basis on a case on violating the antimonopoly law upon new and (or) newly discovered circumstances within ten days from the day when the petition was received, if the antimonopoly authority establishes that:

- 1) the requirements for the form and content of a petition are not observed;
- 2) a petition is filed upon expiry of the established deadline and there is no request to revive the deadline or a request to revive the missed deadline is dismissed.

7. A petition to reconsider a decision made by the antimonopoly authority and (or) a determination issued on its basis on a case on violating the antimonopoly law upon new and (or) newly discovered circumstances shall be considered by the commission that made the decision and (or) issued the determination, within a month from the day when the petition was received by the antimonopoly authority.

8. Upon the results of examining a petition to reconsider a decision made by the antimonopoly authority and (or) a determination issued on its basis on a case on violating the antimonopoly law upon new and (or) newly discovered circumstances, a commission shall make one of the following decisions:

- 1) to grant the petition and to reconsider the decision and (or) the determination;
- 2) to dismiss the petition.

9. A commission shall send a decision to dismiss a petition about reconsidering a decision and (or) a determination issued on its basis on a case on violating the antimonopoly law to a petitioner within three days as of the date when this decision was made.

10. If a decision is made to reconsider a decision and (or) a determination issued on its basis on a case on violating the antimonopoly law, a commission shall issue an intermediary order to reconsider a decision and (or) a determination. Copies of the intermediary order shall be sent to the person taking part in the case within three days from the date it was made.

11. A decision and (or) a determination issued on its basis on a case on violating the antimonopoly law shall be reconsidered by the commission that made the decision under review and (or) issued the determination under review in accordance with the procedures established by this Chapter.

#### **Article 52. The Procedures for Appealing Decisions and Determinations of the Antimonopoly Authority**

1. A decision and (or) a determination of the antimonopoly authority can be appealed to an arbitration court within three months from the day when the decision was made or the determination was issued. Cases on appealing decisions and (or) determinations of the antimonopoly authority are subject to the jurisdiction of arbitration courts.

**2. If an arbitration court initiates proceedings on an appeal against a determination, execution of the determination of the antimonopoly body shall be suspended until the day when the judgment of the arbitration court comes into effect.**

## **Chapter 10. Concluding Provisions and Coming into Effect of this Federal Law**

### **Article 53. Concluding Provisions**

1. Starting from the date of this Federal Law coming into effect, the following is recognized invalid:

1) Articles 1 – 3, indentions 1 – 25 of Part 1 of Article 4, Parts II – VII of the RSFSR law of March 22, 1991 № 948-1 “On Competition and Restriction of Monopolistic Activities in Goods Markets (Vedomosti of the Congress of People’s Deputies of the RSFSR and the Supreme Soviet of the RSFSR 1991, № 16, p. 499);

2) The Federal Law of June 23, 1999 № 117-FZ “On Protection of Competition in the Financial Services Market” (The RF Code of Laws 1999, № 26, p. 3174);

3) Clauses 1 – 4, 6 – 26, 30 – 34 of Article 1 of the Federal Law of May 25, 1995 № 83-FZ “On Introduction of Changes and Additions to the RSFSR Law “On Competition and Restriction of Monopolistic Activities in Goods Markets” (The RF Code of Laws, 1995, № 22, p. 1977);

4) the Federal Law of May 6, 1998 № 70-FZ “On Introduction of Changes and Additions to the RSFSR Law “On Competition and Restriction of Monopolistic Activities in Goods Markets” (The RF Code of Laws, 1998, № 19, p. 2066);

5) the Federal Law of January 2, 2000 № 3-FZ “On Introduction of Changes and Additions to Article 18 of the RSFSR Law “On Competition and Restriction of Monopolistic Activities in Goods Markets” (The RF Code of Laws, 2000, № 2, art. 124);

6) indentions 2 – 5, 38 – 42 of Article 3 of the Federal Law of December 30, 2001 № 196-FZ “On coming into effect of the RF Code of Administrative Infringements” (The RF Code of Laws, 2002, № 1, art. 2);

7) Clause 2 of Article 2 of the Federal Law of March 21, 2002 № 31-FZ “On bring of the statutory acts in accord wit the Federal Law “On State Registration of Legal Persons” (The RF Code of Laws, 2002, № 12, art. 1093);

8) Clauses 1 – 4, 6 – 33 of the Federal Law of October 9, 2002 № 122-FZ “On introduction of changes and additions in the RSFSR Law “On Competition and Restriction of Monopolistic Activities in Goods Markets” (The RF Code of Laws, 2002, № 41, art. 3969);

9) The Federal Law of March 7, 2005 № 13-FZ “On Introducing Changes and Additions to Articles 17 and 18 of the RSFSR Law “On Competition and Restriction of Monopolistic Activities in Goods Markets” (The RF Code of Laws, 2005, № 10, art. 761);

10) Articles 2 and 21 of the Federal Law of February 2, 2006 № 19-ФЗ “On introduction of changes in some statutory acts of the Russian Federation and recognizing invalid separate provisions of the statutory acts of the Russian Federation in connection with adoption of the Federal Law “On Placement of Orders for Goods, Works and Services for State and Municipal Needs” (The RF Code of Laws, 2006, № 6, art. 636).

2. Starting from the date of coming into effect of this Federal Law and till bring into line with this Federal Law of other laws and other statutory legal acts of the Russian Federation regulating relations connected with protection of competition in the Russian Federation, prevention and restriction of the monopolistic activity and unfair competition the mentioned above laws and other statutory acts are applied in the Part which does not contradict with this Federal Law.

3. Until establishing the procedures under Part 5 Article 17.1 of this Federal Law for organizing tenders or auctions for the right to enter into contracts, specified in Parts 1 and 3 Article 17.1 of this Federal Law, tenders for the right to enter into such contracts are organized



in accord with the procedures established by No.115-FZ Federal Law “On Concessionary Agreements” of 21<sup>st</sup> July 2005, and the auctions for the right to enter into such contracts are organized in accord with the procedures established by No.178-FZ Federal Law “On Privatizing State and Municipal Property” of 21<sup>st</sup> December 2001.

4. Before 1<sup>st</sup> July 2015, lease contracts, specified in Parts 1 and 3 Article 17<sup>1</sup> of this Federal Law and concluded before 1<sup>st</sup> July 2008 with small and medium companies, except small and medium companies listed in Part 3 Article 14 of No.209-FZ Federal Law of 24<sup>th</sup> July 2007 “On Developing Small and Medium Business in the Russian Federation”, and small and medium companies involved in production and processing of mineral resources (except generally found mineral resources), can be concluded for a new period without tenders or auctions, provided that at the time of entering into such a lease contract for a new period there were no reasons for its early termination, as provided for by the civil law. The lease contracts, specified in this Part, cannot be concluded for a period longer than 1<sup>st</sup> July 2015.

5. Before 1<sup>st</sup> January 2011, information about organizing tenders or auctions for the for the right to enter into contracts, specified in Parts 1 and 3 Article 17.1 of this Federal Law, must be published at the official Internet site of the Russian Federation, the official Internet site of a constituent territory of the Russian Federation, the official Internet site of a municipality for publishing information about tenders, that are determined by the federal executive body authorized by the Government of the Russian Federation, the supreme executive body of a constituent territory of the Russian Federation, a local self-government body accordingly. Notices about tenders or auctions, changes to then, notices on refusal to organize tenders or auctions must also be published at the official print media, determined on a competitive basis by the federal executive body authorized by the Government of the Russian Federation, the supreme executive body of a constituent territory of the Russian Federation, a local self-government body.

**6. It is not allowed to extend contracts and renegotiate them for a new period without open tenders or open auctions for the contracts for providing financial services, specified in Article 18 of this Federal Law.**

#### **Article 54. Coming into Effect of this Federal Law**

This Federal Law will come into effect after ninety days from the date of its official publication.

V. PUTIN  
President of the Russian Federation

Moscow, the Kremlin  
26<sup>th</sup> July 2006  
No. 135-FZ