

**FEDERAL LAW  
NO. 135-FZ OF JULY 26, 2006  
ON PROTECTION OF COMPETITION**

**(with the Amendments and Additions of December 1, 2007, April 29, June 30, November 8, 2008, July 17, December 27, 2009, April 5, May 5, November 29, 2010, March 1, July 1, 11, 18, December 6, 2011)**

**Adopted by the State Duma on July 8, 2006  
Endorsed by the Federation Council on July 14, 2006**

*Agreement on the Uniform Competition Principles and Rules (Moscow, December 9, 2010) shall be applied on the common customs territory of the member states of the Customs Union starting from January 1, 2012*

*The member states of the Customs Union shall adjust their legislation in compliance with the uniform competition rules within 18 months from the date of entry into force of said Agreement*

*As to the certain issues arising in connection with the application of anti-monopoly legislation, see [Resolution](#) of the Plenary Session of the Higher Arbitration Court of the Russian Federation No. 30 of June 30, 2008*

## **Chapter 1. General Provisions**

### **Article 1.** Subject and Goals of This Federal Law

**1.** This Federal Law shall define the organisational and legal outline of competition protection, including the prevention and suppression of the following:

- 1) monopolistic activities and unfair competition;
- 2) banning, restriction or removal of competition by the federal executive power bodies, the state power bodies of the constituent entities of the Russian Federation, local self-government bodies, other agencies or organisations exercising the functions of the said bodies, as well as by state off-budget funds and the Central Bank of the Russian Federation.

**2.** As the goals of this Federal Law shall be deemed ensuring of the common free market zone, free movement of commodities, freedom of economic activities in the Russian Federation, protection of competition and creation of conditions for the efficient functioning of commodity markets.

### **Article 2.** Anti-Monopoly Legislation of the Russian Federation and Other Normative Legal Acts on Competition Protection

**1.** The anti-monopoly legislation of the Russian Federation (hereinafter referred to as the anti-monopoly legislation) shall be based on the [Constitution](#) of the Russian Federation, the [Civil Code](#) of the Russian Federation and comprise this Federal Law and other [federal laws](#) regulating the relations mentioned in [Article 3](#) of this Federal Law.

**2.** The relations mentioned in [Article 3](#) of this Federal Law may be regulated by decisions of the Government of the Russian Federation and normative legal acts of the federal anti-monopoly agency in the instances provided for by the anti-monopoly legislation.

**3.** If an international treaty made by the Russian Federation establishes rules other than those provided for by this Federal Law, the rules of the international treaty shall apply.

### **Article 3.** Scope of This Federal Law

**1.** This Federal Law shall extend to relations connected with competition protection, in

particular with the prevention and suppression of monopolistic activities and unfair competition where Russian and foreign legal entities, organisations, the federal executive power bodies, the state power bodies of the constituent entities of the Russian Federation, local self-government bodies, other agencies or organisations exercising the functions of the said bodies, as well as the state off-budget funds, the Central Bank of the Russian Federation and natural persons, including individual businessmen, participate.

2. The provisions of this Federal Law shall apply to the agreements between Russian and/or foreign persons or organisations made outside the Russian Federation, as well as to the actions made by them, if such agreements and such actions affect the state of competition in the territory of the Russian Federation.

#### **Article 4.** Basic Concepts Applied in This Federal Law

The following basic concepts shall be applied in this Federal Law:

1) a **commodity** shall mean an object of civil rights (including works and services, in particular financial services) intended for sale, exchange or other putting into circulation;

2) a **financial service** shall mean a banking service, insurance service, service in the securities market, a service under a contract of leasing, as well as a service rendered by a financial organisation and connected with attraction and (or) placement of monetary funds of legal entities and natural persons;

3) **exchangeable commodities** shall mean the commodities which are comparable as to their functional purpose, application, qualitative and technical characteristics, price and other parameters so that the acquirer thereof really replaces or is ready to replace either commodity by the other one when consuming them (in particular when consuming them for production purposes);

4) a **commodity market** shall mean the scope of a commodity's circulation (including a foreign-made commodity) which cannot be replaced by another commodity, or of exchangeable commodities (hereinafter referred to as a certain commodity) within whose bounds the acquirer can buy a commodity proceeding from economic, technical or another possibility or expediency and there is no such possibility or expediency outside it;

5) an **economic agent** shall mean a profit-making organisation or a non-profit organisation engaged in profitable activities, as well as an individual businessman or other natural person which is not registered as an individual businessman but is engaged in profitable professional activities, in compliance with federal laws on the basis of the state registration and/or a licence and also by virtue of membership in a self-regulating organisation;

6) a **financial organisation** shall mean an economic unit rendering financial services, that is, a credit organisation, microfinancial organisation, credit consumer cooperative, insurer, insurance agent, mutual insurance society, stock exchange, currency exchange, pawn-shop, leasing company, non-governmental pension fund, management company of an investment fund, management company of a unit investment fund, management company of a non-governmental fund, specialised depository of an investment fund, specialised depository of a unit investment fund, specialised depository of a non-governmental pension fund and a professional securities market maker;

7) **competition** shall mean rivalry of economic units when independent actions of each of them exclude or limit the potential of each of them to influence unilaterally the general terms of commodities' circulation in the appropriate commodity market;

8) **discriminating conditions** shall mean the terms of access to a commodity market, conditions of production, exchange, consumption, acquisition, sale or other transfer of a

commodity under which an economic unit or several economic units find themselves in an unequal position as compared to other economic unit or other economic units;

9) **unfair competition** shall mean any actions of economic units (a group of persons) which are aimed at gaining advantages in the exercise of business activities, contravene the legislation of the Russian Federation, traditions of business intercourse, do not comply with the requirements for honesty, reasonableness and fairness and have caused or can cause losses to other economic units which are their competitors, or have breached or can breach their business reputation;

10) **monopoly activities** shall mean abuse by an economic unit or a group of persons of their dominant position, agreements or concerted actions banned by the anti-monopoly legislation, as well as other actions (omission to act) deemed to be monopolistic activities under the federal laws;

11) **systematic exercise of monopolistic activities** shall mean the exercise by an economic unit of monopolistic activities detected in the procedure established by this Federal Law more than twice with a three- year period;

12) unreasonably high price of a financial service or unreasonably low price of a financial service shall mean the price of a financial service or financial services which is fixed by the dominant financial organisation, essentially differs from the competitive price of the financial service and (or) impedes access of other financial organisations to a commodity market and (or) has a negative impact upon competition;

13) **competitive price of a financial service** shall mean the price at which the financial service can be rendered under the conditions of competition;

14) **coordination of economic activities** shall mean coordination of actions of economic agents by a third person which does not belong to the same group of persons as any of such economic agents and is not engaged in any activity in the commodity market where actions of the economic agents are coordinated. As coordination of economic activities shall not be deemed the actions of economic agents made within the framework of "vertical" agreements;

15) **anti-monopoly body** shall mean the federal anti-monopoly agency and territorial branches thereof;

16) **acquisition of stocks (shares) of economic companies** shall mean the purchase, as well as gaining any other opportunity to exercise the right of vote granted by stocks (shares) of economic companies on the basis of contracts of property trust management, contracts of joint activity, contracts of agency and other transactions or for different reasons;

17) **signs of competition restriction** shall mean the reduction of the number of economic agents that do not pertain to the same group of persons in a commodity market, rise or reduction of the price of a commodity which are not connected with the appropriate changes of other general conditions of a commodity's circulation in a commodity market, refusal of economic agents not pertaining to the same group of persons to make independent actions in a commodity market, determination of the general conditions of a commodity's circulation in a commodity market by an agreement made by economic agents or in compliance with the instructions of another person to be followed without fail or as a result of coordination by the economic agents not pertaining to the same group of persons of their actions in a commodity market, as well as other circumstances making it possible for an economic agent or several economic agents to unilaterally influence the general conditions of a commodity's circulation in a commodity market, and also setting by the state power bodies, local authorities and organisations participating in the provision of the state or municipal services in the course of participation in the provisions of such services any requirements for commodities or for economic agents which are not provided for by the legislation of the Russian Federation;

18) agreement shall mean an understanding in writing contained in a document or several documents, as well as a verbal understanding;

19) a **"vertical" agreement** shall mean an agreement between economic agents one of which acquires a commodity while the other one provides (sells) the commodity. An agency contract shall not be deemed a "vertical" agreement;

20) **state or municipal preferences** shall mean granting by federal executive power bodies, state power bodies of constituent entities of the Russian Federation, local authorities, other agencies and organisations exercising the functions of the cited bodies to certain economic agents privileges which create more profitable conditions for their activities by way of transfer thereto state or municipal property and other objects of law or by way of granting privileges of a property nature, or the state or municipal guarantees;

21) **economic concentration** shall mean transactions or other actions whose making influences the state of competition.

22) the **person deemed to be the target of economic concentration** shall mean the one whose stocks (shares), assets, plant and/or intangible assets are acquired or contributed to the authorized capital and /or the one in respect of which the rights are acquired in the procedure established by **Chapter 7** of this Federal Law.

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

**1.** As dominant position shall be deemed the position of an economic unit (a group of persons) or of several economic units (groups of persons) in the market of a certain commodity making it possible for such economic unit (group of persons) or such economic units (groups of persons) to exert a critical influence upon the general conditions of a commodity's circulation in the appropriate commodity market and (or) to remove other economic units from this commodity market and (or) to impede access to this commodity market of other economic units.

As dominant shall be deemed the position of economic units (except for a financial organisation):

1) whose share in the market of a certain commodity exceeds fifty per cent, if only it is not established while considering a case on violating the anti-monopoly legislation or while exercising state control over economic concentration that, despite the excess of the said value, the position of an economic unit in a commodity market is not dominant;

2) whose share in the market of a certain commodity is less than fifty per cent, if the dominant position of such economic unit is detected by the anti-monopoly body on the basis of an invariable or slightly variable share of the economic unit in the commodity market, relative rate of shares in this commodity market belonging to competitors, probability of access to this commodity market of new competitors or on the basis of other criteria characteristic of this commodity market.

**2.** The position of an economic unit (except for a financial organisation) whose share in the market of a certain market does not exceed thirty five per cent may not be deemed dominant, except for the instances specified by **Parts 3, 6 and 6.1** of this Article.

**3.** As dominant shall be deemed the position of each economic unit from among several economic units (except for a financial organisation) as applied to which the combination of the following conditions can be observed:

1) the aggregate share of a maximum of three economic units with the share of each of them being more than shares of other economic units in the appropriate commodity market exceeds fifty per cent, or the aggregate share of at most five economic units with the share of

each of them being more than shares of other economic units in the appropriate commodity market exceeds seventy five per cent (this provision shall not apply, if the share of at least one of the said economic units is less than eight per cent);

2) within a long time period (within at least one year or, if such time period is less than one year, within the time period of functioning of the appropriate commodity market) relative values of shares of economic units are invariable or slightly variable, and it is difficult for new competitors to get access to the appropriate commodity market;

3) the commodity sold or purchased by economic units may not be replaced by some other commodity when consumed (in particular when consumed for production purposes), the rise in the commodity's price does not cause the reduction of demand for such commodity corresponding to such rise, information about the price, terms of sale or purchase of this commodity in the appropriate commodity market is accessible to an indefinite group of persons.

4. An economic unit shall be entitled to bring to the anti-monopoly body or court the proof that the position of this economic unit in the commodity market is not dominant.

5. As dominant shall be deemed the position of an economic unit of a natural monopoly in a commodity market which is in the state of the natural monopoly.

6. Federal laws may establish the instances of declaring as dominant the position of an economic unit whose share in the market of a certain commodity constitutes less than thirty five per cent.

**6.1.** On the basis of the results of analysis the state of competition made by the anti-monopoly agency as dominant shall be deemed the economic agent's position whose share in the market of a definite commodity is below thirty five per cent and exceeds shares of another economic agent in the appropriate commodity market but which can exert a decisive influence on the general conditions of the commodity's circulation in the commodity market, if, in so doing, the following conditions are met in the aggregate:

1) the economic agent can unilaterally fix the price level of a commodity and exert a decisive influence on the general conditions of the commodity's sale in the appropriate commodity market;

2) admittance to an appropriate commodity market of new competitors is impeded, in particular as a result of economic, technological, administrative or other restrictions;

3) the commodity sold or acquired by an economic agent cannot be replaced by another commodity in consumption (in particular when consumed for industrial purposes);

4) alteration of a commodity's price do not cause a reduction of demand for the commodity corresponding to such alteration.

**6.2.** The position of an economic agent may be deemed dominant for the reasons cited in [Part 6.1](#), if the position of such economic agent is not recognized as dominant for the reasons provided for by [Parts 1, 3 and 6](#) of this Article.

**7.** The terms of declaring the position of a financial organisation as dominant (except for a credit organisation) subject to the restrictions provided for by this Federal Law shall be established by the Government of the Russian Federation. The terms of declaring as dominant the position of a credit organisation subject to the restrictions provided for by this Federal Law shall be established by the Government of the Russian Federation by approbation of the Central Bank of the Russian Federation. The dominant position of a financial organisation (except for a credit organisation) shall be established by the anti-monopoly body in the procedure approved by the Government of the Russian Federation. The procedure for establishing the dominant position of a credit organisation shall be approved by the Government of the Russian Federation by approbation of the Central Bank of the Russian Federation. The position of a financial organisation whose share does not exceed ten per cent in the only commodity market



in the Russian Federation or twenty per cent in the commodity market where the commodity circulating therein also circulates in other commodity markets in the Russian Federation may not be deemed dominant.

**8.** When analysing the state of competition provided for by [Item 3 of Part 2 of Article 23](#) of this Federal Law, an anti-monopoly agency shall assess the circumstances affecting the state of competition, in particular the conditions of admittance to a commodity market, shares of economic agents in the markets of certain commodities, correlation of shares of commodity's purchasers and sellers, period when an opportunity exists to exert a decisive influence upon the general terms of a commodity's circulation in the commodity's market.

**9.** The time span for analyzing the state of competition shall be fixed depending on the objective of study, the specifics of a commodity market and availability of information. The shortest time span for analyzing the state of competition for the purpose of establishing the dominant position of an economic agent must constitute a year or the time period within which a commodity market exists, if it is shorter than a year.

#### **Article 6.** Exclusively High Commodity Price

**1.** As an exclusively high price of a commodity shall be deemed the price fixed by an economic agent holding a dominant position, if this price exceeds the sum of the expenses required for making and selling such commodity and profit, as well as the price that has formed under the conditions of competition in the commodity's market comparable from the point of composition of the commodity's purchasers or sellers, conditions of the commodity's circulation, conditions of access to the commodities market, state regulation, including taxation and customs tariffs regulation (hereinafter referred to as a comparable commodity market), if there is such market in the territory of the Russian Federation or outside it, in particular the one fixed:

1) by way of raising the previously fixed price of the commodity, if, in so doing, the following conditions are met in the aggregate:

a) the expenses required for the commodity's production and sale remain unchanged or their alteration does not correspond to alteration of the commodity's price;

b) the composition of the commodity's sellers or purchasers remains unchanged or alteration of the composition of the commodity's sellers or purchasers is insignificant;

c) the conditions of the commodity's circulation in the commodity's market, in particular those caused by state regulation measures, including taxation and tariff regulation, remain unchanged or their alteration is disproportionate to alteration of the commodity price;

2) by way of maintenance or non-reduction of the previously fixed commodity price, if, in so doing, the following conditions are met in the aggregate:

a) the outlays on the commodity's manufacture and sale have drastically reduced;

b) the composition of the commodity's sellers or purchasers provides for the possibility of a downward alteration of the commodity's price;

c) the terms of the commodity's circulation in the commodity's market, in particular those caused by state regulation measures, including taxation and tariff regulation, ensure the possibility of a downward alteration of the commodity's price.

**2.** If the conditions provided for by [Part 1 of Article 13](#) of this Federal Law are met, the price of a commodity which is the result of innovative activities, that is, of activities leading to the creation of a new non-interchangeable commodity or a new interchangeable commodity whose production outlays are reduced and/or whose quality is improved, shall not be deemed exclusively high.

**3.** The commodity price shall not be deemed exclusively high, if it is fixed by a natural monopoly entity within the limits of the tariff of such commodity fixed in compliance with the

legislation of the Russian Federation.

**4.** The commodity price shall not be deemed exclusively high, if the price formed under the conditions of competition in a comparable commodity market is not exceeded.

**5.** The price of a commodity shall not be deemed exclusively high, if it is fixed at an exchange when the following conditions are concurrently met:

1) the volume of the commodity being sold through an exchange which is made or sold by an economic agent holding the dominant position in the appropriate commodity market is not below the value fixed by the federal anti-monopoly agency and the federal executive power body engaged in normative legal regulation of the area of activities where the appropriate commodity is produced;

2) transactions are made by the economic agent holding the dominant position in the appropriate commodity market in the course of exchange trading that satisfy the requirements defined by the federal anti-monopoly agency and the federal executive power body engaged in normative legal regulation of the area of activities comprising the production of the appropriate commodity, in particular the requirements for the minimum number of exchange trading participants within a trading session;

3) the economic agent holding the dominant position in an appropriate commodity market which is accredited and/or is participating in trading (in particular by way of filing bids for participation in trading with a broker or brokers) presents to the exchange a list of affiliated persons in the procedure established by the federal anti-monopoly agency;

4) actions of the economic agent holding the dominant position in an appropriate commodity market and/or of affiliated persons thereof do not constitute market manipulation;

5) the economic agent holding the dominant position in an appropriate commodity market sells commodities through an exchange on a regular basis, with the volume of the commodities evenly distributed per trading sessions within a calendar month. The Government of the Russian Federation is entitled to define criteria for regularity and evenness of commodity sale through an exchange with respect to individual commodity markets;

6) the economic agent holding the dominant position in an appropriate commodity market registers off-exchange transactions involving the supply of the commodities circulating in such commodity market in the instances and in the procedure which are established by the Government of the Russian Federation;

7) the minimum volume of an exchange lot does not impede access to an appropriate commodity market;

8) the economic agent holding the dominant position in an appropriate commodity market sells the commodity through an exchange satisfying the requirements of the **legislation** of the Russian Federation for organised trading, including the requirements for observance of the confidentiality of information about the persons filing bids for participation in trading, in particular by way of filing such bids with a broker or brokers.

**6.** The price of a commodity fixed subject to the specifics of forming the starting price of products when sold through an exchange coordinated with an anti-monopoly agency shall not be deemed exclusively high.

**7.** The price of a commodity shall not be deemed exclusively high, if it does not exceed the one fixed at an exchange with the observance of the conditions provided for by **Parts 5 and 6** of this article and, with this, the economic (commercial) terms of a transaction are comparable as to the quantity and/or volume of the commodities to be supplied, the time for discharging obligations, payment terms which are normally applied in transactions of this kind, and also as to other reasonable terms which can affect the price thereof.

**8.** When determining the exclusively high price of a commodity in compliance with **Part 1** of this article, the exchange and off-exchange price indices established at the world markets of a similar commodity shall be taken into account.

#### **Article 7.** Exclusively Low Commodity Price

**1.** As an exclusively low commodity price shall be deemed the price fixed by the economic agent holding the dominant position, if this price is below the sum of expenses necessary for the production and sale of such commodity and profit, as well as below the price formed under conditions of competition in a comparable commodity market, if there is such a market in the territory of the Russian Federation and outside it, in particular the one fixed:

1) by way of reducing the previously fixed price of the commodity, if, in so doing, the following conditions are met in the aggregate:

a) the expenses required for the commodity's production and sale remain unchanged or their alteration does not correspond to alteration of the commodity's price;

b) the composition of the commodity's sellers or purchasers remains unchanged or alteration of the composition of the commodity's sellers or purchasers is insignificant;

c) the conditions of the commodity's circulation in the commodity's market, in particular those caused by state regulation measures, including taxation and tariff regulation, remain unchanged or their alteration is disproportionate to alteration of the commodity price;

2) by way of maintenance or non-raising of previously fixed commodity price, if, in so doing, the following conditions are met in the aggregate:

a) the outlays on the commodity's manufacture and sale have drastically risen;

b) the composition of commodity's sellers or purchasers provides for the possibility of alteration upward of the commodity's price;

c) the terms of the commodity's circulation in the commodity's market, in particular those caused by state regulation measures, including taxation and tariff regulation, ensure the possibility of alteration upward of the commodity's price.

**2.** The commodity price shall not be deemed exclusively low, if:

1) it is fixed by a natural monopoly entity within the limits of such commodity's tariff fixed in compliance with the legislation of the Russian Federation;

2) it is not below the price formed under the conditions of competition in a comparable commodity market;

3) its fixing by the commodity seller has not caused and could not cause limitation of competition in connection with a reduction of the number of economic agents in the appropriate commodity market which do not pertain to the same group of persons as the commodity's sellers and purchasers.

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

**1.** As concerted actions of economic agents shall be deemed the actions of economic agents in a commodity market, if there is no agreement made by them, that satisfy the following conditions in the aggregate:

1) the outcome of such actions corresponds to the interests of each of the said economic agents;

2) the actions are known in advance to each of the economic agents participating therein in connection with a public declaration of one of them about making such actions;

3) the actions of each of the said economic agents are caused by actions of other economic agents and do not result from the circumstances equally affecting all the economic agents in the appropriate commodity market. As such circumstances may be regarded, in particular, changes in controllable tariffs, changes in the prices of the raw-stuff used in the



production of a commodity, changes in the prices of a commodity in the world commodity markets, a major change in the demand for a commodity within at least one year or within the term of functioning of the appropriate commodity market, if such term is less than one year.

2. Making actions by the persons cited in **Part 1** of this article under an agreement shall not pertain to concerted actions but shall be deemed to be an agreement.

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

1. As a group of persons shall be deemed the totality of natural persons and/or legal entities having one or several features from among the following ones:

1) an economic company (partnership, economic partnership) and a natural person or legal entity, if such natural person or such legal entity by virtue of their participation in this economic company (partnership, economic partnership) or in compliance with the authority received from other persons, in particular on the basis of an agreement made in writing, have over fifty per cent of the total number of votes falling on voting stocks (shares) in the authorised (pooled) capital of this economic company (partnership, economic partnership);

2) an economic company (partnership, economic partnership) and a natural or legal entity, if such natural person or such legal entity exercises the functions of the personal executive body of this economic company (partnership, economic partnership);

3) an economic company (partnership, economic partnership) and a natural person or legal entity, if such natural person or such legal entity on the basis of the constituent documents of this economic company (partnership, economic partnership) or the contract made with this economic company (partnership, economic partnership) is entitled to give instructions to this economic company (partnership, economic partnership) to be followed without fail;

4) an economic company (partnership, economic partnership) where the same natural persons constitute over fifty per cent of the quantitative composition of the collective executive body and (or) the board of directors (supervisory board, fund's board);

5) an economic company (economic partnership) and a natural person or legal entity, if the personal executive body of such economic company (economic partnership) is appointed or elected on the proposal of such natural person or such legal entity;

6) an economic company and a natural person or a legal entity, if over fifty per cent of the quantitative composition of the collective executive body or the board of directors (supervisory board) of this economic company are elected at the suggestion of such natural person or such legal entity;

7) a natural person, the spouse, parents (including adoptive ones), children (including adopted ones), full-blood brothers and sisters, as well as half-blood brothers and half-blood sisters, thereof;

8) persons each of which pertain to a group with the same person due to some of the features specified in **Items 1-7** of this Part, as well as other persons pertaining to the same group as any of such persons due to some of the features stated in **Items 1-7** of this Part;

9) a business company (partnership, economic partnership), natural persons and/or legal entities which due to any of the features cited in **Items 1-8** of this part pertain to the same group of persons, if such persons by virtue of their joint participation in this business company (partnership, economic partnership) or in compliance with the authority received from other persons have over fifty per cent of the total number of votes falling on the voting stocks (shares) in the authorised (pooled) capital of this business company (partnership, economic partnership).

2. The bans imposed by the **anti-monopoly legislation** in respect of actions (omission to act) of an economic agent in a commodity market shall extend to actions (omission to act) of a group of persons, if not otherwise established by federal law.

## Chapter 2. Monopolistic Activities. Unfair Competition

### Article 10. Prohibition of Abuse by an Economic Unit of Its Dominant Position

1. The actions (omission to act) of an economic unit occupying a dominant position which result or can result in barring, restricting or eliminating competition and (or) infringe upon the interests of other persons shall be prohibited, including the following actions (omission to act):

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

2) withdrawing a commodity from circulation, if such withdrawal has caused the rise in the price of the commodity;

3) imposing upon a contractor the terms and conditions of a contract which are not favourable for him or do not pertain to the subject of the contract (unreasonable demands to transfer financial assets, other property, including property rights, as well as to give consent to making a contract on condition of entering thereto the provisions in respect of the commodities which the contractor is not interested in, and other demands which are not economically or technologically substantiated and (or) are not directly provided for by the federal laws, normative legal acts of the President of the Russian Federation, normative legal acts of the Government of the Russian Federation, normative legal acts of authorised federal executive bodies or judicial acts;

4) reduction or termination of a commodity's production which are not economically or technologically substantiated, if this commodity is in demand or orders to supply it are placed and it is possible to manufacture it on a profitable basis, as well as if such reduction or termination of a commodity's production is not directly provided for by the federal laws, normative legal acts of the President of the Russian Federation, normative legal acts of the Government of the Russian Federation, normative legal acts of the authorised federal executive bodies or by judicial acts;

5) refusal to make a contract with some purchasers (customers) or evasion of it which are not economically or technologically substantiated, if it is possible to produce or supply the appropriate commodity, as well as if such refusal or evasion are not directly provided for by the federal laws, normative legal acts of the President of the Russian Federation, normative legal acts of the Government of the Russian Federation, normative legal acts of the authorised federal executive bodies or judicial acts;

6) fixing different prices (tariffs) of the same commodity which is not substantiated economically, technologically or in some other way, if not otherwise established by the federal laws;

7) fixing by a financial organisation an unreasonably high or unreasonably low price of a financial service;

8) creation of discriminating conditions;

9) impeding access to a commodity market or withdrawal from a commodity market of other economic units;

10) breaking the price formation procedure established by normative legal acts.

11) price manipulation in the wholesale and/or retail markets of electric energy (power).

2. An economic unit shall be entitled to provide evidence that its actions (omission to act), specified in Part 1 of this Article (except for the actions stated in Items 1, 2, 3, 5, 6, 7 and 10 of Part 1 of this Article) can be declared permissible in compliance with the requirements of Part 1 of Article 13 of this Federal Law.

3. For the purpose of preventing the creation of discriminatory conditions a federal law or a regulatory legal act of the Government of the Russian Federation may establish the rules for

non-discriminatory access to commodity markets and/or to the commodities made or sold by natural monopoly entities whose activities are regulated in compliance with **Federal Law No. 147-FZ** of August 17, 1995 on Natural Monopolies, as well as to the infrastructure facilities directly used by these natural monopolies entities for rendering services in the areas of activities of natural monopolies. The cited rules shall contain the following:

1) a list of the commodities and infrastructure facilities which a non-discriminatory access is provided to;

2) a list of data making it possible for participants of an appropriate commodity market to compare the conditions of commodities' circulation in the commodity market and/or of access to the commodity market, as well as of other essential information which is necessary for access to the commodity market and/or circulation of commodities in the commodity market;

3) a procedure for disclosing the information provided for by **Item 2** of this part, in particular about the commodities made or sold by the economic agents cited in **Paragraph One** of this Article, the value of these commodities and rate of payment for providing access to a commodity market, probable volume of production or sale of these commodities, about technical and technological capacities as to the supply of these commodities;

4) a procedure for reimbursement of economically sound outlays of economic agents cited in **Paragraph One** of this part, on the production and/or sale of appropriate commodities and/or arrangement of access to a commodity market;

5) conditions of carrying out competitive procedures for providing access to the commodity market where the economic agents cited in **Paragraph One** of this part exercise their activities, when it is possible from economic, technological or other points of view and if other procedures for providing access to the commodity market are not stipulated by the legislation of the Russian Federation;

6) essential terms and conditions of agreements and/or model agreements of providing access to the commodity market and/or to commodities of the economic agents which are cited in **Paragraph One** of this part;

7) a procedure for determining consumers to be serviced without fail, for fixing the minimum level of their supply and establishing the procedure for providing access to commodity markets and/or commodities, if it is impossible to meet in full their demand for the commodity made and/or sold by the economic agents cited in **Paragraph One** of this Part, subject to the necessity to protect the rights and legitimate interests of citizens, enhance security of the State and protect nature and cultural valuables;

8) conditions of providing access to a commodity market and/or to infrastructure facilities of the economic agents cited in **Paragraph One** of this part and, where it is provided for, the requirements for taking technological and technical measures, in particular when effecting technological connection;

9) requirements for characteristics of an appropriate commodity, if not otherwise provided for by the legislation of the Russian Federation.

**4.** The requirements of this Article shall not extend to the actions related to the exercise of the sole rights in respect of the results of intellectual activities and the individualisation means of a legal entity equated with them, means of products', works' or services' individualisation.

#### **Article 11.** Prohibition of Agreements Restricting Competition of Economic Agents

**1.** Agreements between competing economic agents, that is, between economic agents selling commodities in the same commodity market, shall be deemed a cartel and shall be forbidden, if such agreements lead to or can lead to the following:

1) fixing or maintenance of prices (tariffs), discounts, additions (additional payments) or extra charges;

2) rise in, reduction or maintenance of, prices when trading;

3) market sharing on the basis of the territorial principle, volume of a commodity's sales or purchases, assortment of commodities being sold or composition of sellers or purchasers (customers);

4) reduction or termination of a commodity's production;

5) refusal to make contracts with certain sellers or purchasers (customers).

**2.** "Vertical" agreements between economic agents (except for "vertical" agreements which are deemed allowable in compliance with [Article 12](#) of this Federal Law) shall be prohibited, if:

1) such agreements lead or can lead to fixing the price of a commodity's re-sale, except when the seller fixes the maximum price of a commodity's re-sale for the purchaser;

2) such agreements provide for the purchaser's obligation not to sell a commodity of the economic agent which is the seller's competitor. This prohibition shall not extend to agreements on arranging by the purchaser of a commodity's sale under the seller's or manufacturer's trademark or firm name.

**3.** Agreements between economic agents which participate in the wholesale and/or retail markets of electric energy (power), or are commercial infrastructure organisations, technological infrastructure organisations, or network organisations shall be prohibited, if such agreements lead to price manipulation in the wholesale and/or retail markets of electric energy (power).

**4.** Other agreements between economic agents (except for the "vertical" agreements which are declared permissible in compliance with [Article 12](#) of this Federal Law) shall be prohibited, if such agreements lead or can lead to restriction of competition. The following agreements, in particular, may be deemed as such:

1) on imposing upon the contractor the terms and conditions which are unfavorable for him or do not pertain to the subject of an agreement (unfounded demands to transfer financial assets or other property, including property rights, as well as giving consent to make an agreement on condition of including thereto provisions in respect of commodities which are of no interests for the contractor, as well as other requirements);

2) on fixing by an economic agent various prices (tariffs) of the same commodity, this not being substantiated from the economic, technological or other points view.

3) on creating for another economic agents obstacles for access to a commodity market or exit from a commodity market;

4) on establishing conditions of membership (participation) in professional or other associations.

**5.** Natural persons, profit-making organisations and non-profit organisations shall not be allowed to coordinate economic activities of economic agents, if such coordination causes any of the effects specified by [Parts 1-3](#) of this Article which may not be deemed admissible in compliance with [Articles 12](#) and [13](#) of this Federal Law or which are not provided for by federal laws.

**6.** An economic agent is entitled to provide evidence that the agreements achieved by it which are provided for by [Parts 2 - 4](#) of this article may be declared permissible in compliance with [Article 12](#) and [Part 1 of Article 13](#) of this Federal Law.

**7.** The provisions of this article shall not extend to agreements made by economic agents pertaining to the same group, if one of such economic agents is exercising control over another economic agent or if such economic agents are controlled by a single person, except for the agreements between economic agents engaged in the kinds of activities whose simultaneous exercise by a single economic agent is not allowed in compliance with the legislation of the Russian Federation.

**8.** Control in this article, in [Articles 11.1](#) and [32](#) of this Federal Law shall mean the ability of a natural person or legal entity to determine directly or indirectly (through a legal entity or through several legal entities) decisions adopted by another legal entity by way of one or

several of the following actions:

1) disposal of over fifty per cent of the total number of votes falling at the voting stocks (shares) constituting the authorised (reserve) capital of a legal entity;

2) exercise of the functions of the executive body of a legal entity.

**9.** The requirements of this article shall not extend to agreements on granting and/or alienating the right to use an intellectual activity result or an individualization means of a legal entity or an individualization means of products, works or services.

#### **Article 11.1.** Prohibition of Concerted Actions of Economic Agents Restricting Competition

**1.** Concerted actions of competing economic agents shall be prohibited, if such concerted actions lead to the following:

1) fixing or maintenance of prices (tariffs), discounts, additions (additional payments) or extra charges;

2) rise in, reduction or maintenance of, prices when trading;

3) market sharing on the basis of the territorial principle, volume of a commodity's sales or purchases, assortment of commodities being sold or composition of sellers or purchasers (customers);

4) termination or reduction of commodities' production;

5) refusal to make agreements with definite sellers or purchasers (customers) where such refusal is not provided for by federal laws.

**2.** Concerted actions of economic agents which participate in the wholesale and/or retail markets of electric energy (power), or are commercial infrastructure organisations, technological infrastructure organisations, or network organisations shall be prohibited, if such concerted actions lead to price manipulation in the wholesale and/or retail markets of electric energy (power).

**3.** Other concerted actions of competing economic agents, which are not provided for by **Parts 1 and 2** of this article, shall be prohibited, if such concerted actions lead or can lead to restriction of competition. As such concerted actions may be deemed the following ones:

1) imposing upon the contractor the terms and conditions which are unfavorable for him or do not pertain to the subject of an agreement (unfounded demands to transfer financial assets or other property, including property rights, as well as giving consent to make an agreement on condition of including therein provisions in respect of commodities which are of no interest for the contractor, as well as other requirements);

2) fixing by an economic agent various prices (tariffs) of the same commodity, this not being substantiated from the economic, technological or other point view.

3) creating for another economic agents obstacles for access to a commodity market or exit from a commodity market.

**4.** An economic agent is entitled to provide evidence that the concerted actions made by it which are provided for by **Parts 1-3** of this article may be declared permissible in compliance with **Part 1 of Article 13** of this Federal Law.

**5.** The prohibitions cited in this article shall not extend to concerted actions of economic agents whose aggregate share in a commodity market does not exceed twenty per cent and, with that, the share of each of them in the commodity market does not exceed eight per cent.

**6.** The provisions of this article shall not extend to concerted actions of economic agents pertaining to the same group, if one of such economic agents is exercising control over another economic agent or if such economic agents are controlled by a single person.

#### **Article 12.** Permissibility of "Vertical" Agreements

**1.** "Vertical" agreements in writing shall be permissible (except for "vertical" agreements



between financial organisations), if these agreements are contracts of franchising.

**2.** "Vertical" agreements (except for "vertical" agreements between financial organisations) between economic units shall be allowable, if the share of each of them in any commodity market does not exceed twenty per cent.

### **Article 13.** Permissibility of Actions (Omission to Act), Agreements, Concerted Actions, Transactions and Other Actions

**1.** The actions (omission to act) of the economic units provided for by **Part 1 of Article 10** of this Federal Law (except for the actions (omission to act) specified by **Items 1** (except when the price of a commodity which is a result of innovative activities is fixed or maintained), **2, 3, 5, 6, 7 and 10 of Part 1 of Article 10** of this Federal Law), the agreements and concerted actions provided for by **Parts 2 - 4 of Article 11** and Article 11.1 of this Federal Law, the transactions and other actions provided for by **Articles 27-30** of this Federal Law may be declared permissible, if such actions (omission to act), agreements and concerted actions, transactions or other actions do not make it possible for some persons to remove competition in the appropriate commodity market, do not impose with respect to their participants or third persons the restrictions not complying with the attainment of the aims of such actions (omission to act), agreements and concerted actions, transactions and other actions, as well as if they result or may result in the following:

1) improvement of production and of commodities' sales, or stimulation of technological or economic progress, or enhancement of the competitive ability of Russian-made commodities in the world commodity market;

2) purchasers' gaining advantages (benefits) comparable to the advantages (benefits) gained by economic units as a result of actions (omission to act), agreements, concerted actions and transactions.

**1.1.** Agreements of economic agents on joint activities which can lead to the consequences cited in **Part 1 of Article 11** of this Federal Law may be deemed permissible, if such agreements do not provide to individual persons the opportunity to eliminate competition in an appropriate commodity market, do not impose restrictions upon third persons and in the aggregate result or may result in the following:

1) improvement of production, sale of commodities, or encouragement of technical and economic progress or making direct investments by the parties thereto in the territory of the Russian Federation (in particular, putting in operation new production facilities, modernization of operating production facilities);

2) gaining by purchasers advantages (benefits) proportionate to the advantages (benefits) gained by economic agents as a result of actions (omission to act), agreements, concerted actions and transactions.

**2.** The Government of the Russian Federation shall be entitled to define the instances of permissibility of the agreements complying with the conditions specified by **Items 1 and 2 of Part 1** of this Articles (general exceptions). **General exceptions** in respect of the agreements and concerted actions specified in **Parts 2-5 of Article 11** of this Federal Law shall be defined by the Government of the Russian Federation on the proposal of the federal anti-monopoly body, shall be introduced for a specific period of time and provide for the following:

1) kind of an agreement;

2) terms which may not be regarded as permissible in respect of such agreements;

3) obligatory conditions for ensuring competition that must be contained in such agreements;

4) **abrogated.**

3. The general exceptions may provide, along with the conditions stated in **Part 2** of this Article, for other conditions which agreements must comply with.

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

1. Unfair competition shall not be allowable, in particular:

1) dissemination of false, incorrect or distorted data which may cause losses to an economic unit or breach its business reputation;

2) misleading in respect of the nature, mode and place of production, consumer properties, quality and quantity of a commodity or in respect of its producers;

3) incorrect comparison by an economic unit of the commodities produced by it with commodities produced or sold by other economic units;

4) commodity's sale, exchange or other placing into circulation, if, in so doing, the results of intellectual activities, the individualisation means of a legal entity, means of the individualisation of products, works or services were unlawfully used;

5) unlawful receipt, use and divulging of information constituting commercial, official or other secrets protected by law.

2. Unfair competition connected with the acquisition and use of the exclusive right to individualisation means of a legal entity, means of products', works or services' individualisation shall not be allowable.

3. A decision of the federal anti-monopoly body concerning violation of the provisions of **Part 2** of this Article in respect of the acquisition and use of the sole right to a trade mark shall be sent by the person concerned to the federal executive body in charge of intellectual property for declaring invalid the legal protection of the trade mark.

### **Chapter 3. Prohibition of the Acts, Actions (Omission to Act), Agreements, Concerted Actions of the Federal Executive Power Bodies, the State Power Bodies of the Constituent Entities of the Russian Federation, Local Self-Government Bodies, Other Agencies or Organisations, Exercising the Functions of the Said Bodies, Organisations That Participate in Rendering State or Municipal Services, as Well as of the State Off-Budget Funds and the Central Bank of the Russian Federation Which Restrict Competition**

**Article 15. Prohibition of the Acts and Actions (Omission to Act) of the Federal Executive Bodies, the State Power Bodies of the Constituent Entities of the Constituent Entities of the Russian Federation, Local Self-Government Bodies, Other Bodies and Organisations Exercising the Functions of the Said Bodies, Organisations That Participate in Rendering State or Municipal Services, as Well as of the State Off-Budget Funds and the Central Bank of the Russian Federation, Restricting Competition**

1. The federal executive bodies, the state power bodies of the constituent entities of the Russian Federation, local self-government bodies, other bodies and organisations exercising the functions of the said bodies, organisations that participate in rendering state or municipal services, as well as the state off-budget funds and the Central Bank of the Russian Federation, shall not be allowed to adopt acts and (or) make actions (omission to act) which lead or can lead to barring, restricting or eliminating of competition, except for the instances of adopting such acts and (or) making such actions (omission to act) provided for by the federal laws; in particular, the following shall be prohibited:

1) imposition of restrictions in respect of the establishment of economic units in some area of activities, as well as imposition of bans or restrictions in respect of the exercise of some types of activity or production of some types of commodities;

2) unreasonable prevention of the exercise of activities by economic agents, in particular by way of establishing requirements for commodities or economic agents which are not provided for by the legislation of the Russian Federation;

3) imposition of bans or restrictions in respect of free movement of commodities in the Russian Federation, of other restrictions in respect of the rights of economic subjects to the sale, purchase or other type of acquisition, or exchange of commodities;

4) instructing economic units as to the first-priority supplies of commodities to a certain category of purchasers (customers) or as to making contracts in the first-priority order;

5) imposing restrictions for acquirers of commodities as to the choice of the economic units which supply such commodities.

6) providing access to information for an economic agent on a priority basis;

7) granting a state or municipal preference in defiance of the requirements established by **Chapter 5** of this Federal Law;

8) creation of discriminatory conditions;

9) establishing and/or collecting payments, which are not provided for by the legislation of the Russian Federation, when providing state or municipal services, as well as of the services which are necessary and obligatory for providing state or municipal services;

10) giving instructions to economic agents as to the acquisition of commodities, except as provided for by the legislation of the Russian Federation.

**2.** It shall be forbidden to confer the powers upon the state power bodies of the constituent entities of the Russian Federation or local self-government bodies whose exercise leads or can lead to barring, restriction or elimination of competition, except for the instances provided for by federal laws.

**3.** It shall be forbidden to combine the functions of the federal executive bodies, executive bodies of the constituent entities of the Russian Federation, other power bodies, local self-government bodies and the functions of economic units, except for the instances established by federal laws, decrees of the President of the Russian Federation, decisions of the Government of the Russian Federation, as well as to confer upon economic units the functions and rights of the said bodies, including the functions and rights of the state control and supervision bodies, if not otherwise established by **Federal Law No. 317-FZ** of December 1, 2007 on the State Atomic Power Corporation Rosatom and by **Federal Law No. 238-FZ** of October 30, 2007 on the State Corporation for Construction of Olympic Venues and Development of Sochi as a Mountain Climatic Health Resort.

**Article 16.** Prohibition of Agreements or Concerted Actions of the Federal Executive Bodies, the State Power Bodies of the Constituent Entities of the Russian Federation, Local Self-Government Bodies, Other Bodies or Organisations Exercising the Functions of the Said Bodies, as Well as of the State Off-Budget Funds and the Central Bank of the Russian Federation, Restricting Competition

The agreements between the federal executive bodies, the state power bodies of the constituent entities of the Russian Federation, local self-government bodies, other bodies and organisations exercising the functions of the said bodies, as well as the state off-budget funds and the Central Bank of the Russian Federation, or between them and economic units, or the exercise of concerted actions by these bodies and organisations, shall be prohibited, if such agreements or such exercise of concerted actions lead or can lead to barring, restriction or elimination of competition, in particular to the following:

- 1) rise in, reduction or maintenance of, prices (tariffs), except for instances when such agreements are provided for by the federal laws or normative legal acts of the President of the Russian Federation or normative legal acts of the Government of the Russian Federation;
- 2) fixing different prices (tariffs) of the same commodity which is not substantiated economically, technologically or in any other way;
- 3) ) market sharing on the basis of the territorial principle, volume of a commodity's sales or purchases, assortment of commodities being sold or composition of sellers or purchasers (customers);
- 4) restricting access to a commodity market or withdrawal from it of economic units.

#### **Chapter 4. The Anti-Monopoly Requirements for a Public Sale, Call for Quotations of Commodity Prices, Specifics of Making Contracts with Financial Organisations and of the Procedure for Making Contracts in Respect of State and Municipal Property**

##### **Article 17. Anti-Monopoly Requirements for Auctions, and Call for Quotations of Commodity Prices**

**1.** When holding auctions, or making a call for quotations of commodity prices (hereinafter referred to as a call for quotations) it shall be forbidden to take actions which lead or may lead to the barring, restriction or elimination of competition, including the following:

- 1) coordination by organisers of auctions, and a call for quotations or customers of its participants' activities;
- 2) creation for participant of an auction, call for quotations or several participants of auction or call for quotations of preferred conditions for their participation in an auction, in particular by way of providing access to information, if not otherwise established by federal law;
- 3) breaking the procedure for determining the winner or winners of the auction, call for quotations;
- 4) participation of organisers of the auction, call for quotations, or customers and (or) of employees of auction organisers or employees of customers in an auction, a call for quotations;

**2.** Along with the bans concerning the conduct of an auction, call for quotations established by **Part 1** of this Article, it shall be prohibited, if auction organisers or customers are the federal executive bodies, executive bodies of the constituent entities of the Russian Federation, local self-government bodies, the state off-budget funds, as well as when holding an auction for placement of orders to supply commodities, carry out works or render services for meeting the state or municipal needs, to impose restrictions in respect of admittance to an action a call for quotations which are not provided for by the federal laws or other normative legal acts.

**3.** Along with the bans established by **Parts 1 and 2** of this Article, it shall be prohibited, when holding an auction, or making a request for placing orders to supply commodities, carry out works or render services for meeting the state or municipal needs, to restrict competition between the auction participants by way of including into the composition of lots products (commodities, works or services) which are not technologically and functionally connected with the commodities, works or services whose supply, performance or rendering constitute the object of the auction.

**4.** Failure to follow the rules established by this Article shall serve as a ground for declaring by a court invalid the appropriate auction and the transactions made on the basis of

the results of such auction, call for quotations in particular on the basis of the claim made by the anti-monopoly body.

**Article 17.1.** The Details of the Procedure for Concluding Contracts in Respect of State and Municipal Property

*According to Part 4 of Article 53 of this Federal Law, it shall be admissible to conclude for a new period without holding tenders lease contracts indicated in Parts 1 and 3 of Article 17.1 of this Federal Law and concluded before July 1, 2008 with small and medium-size business subjects, except for the small and medium-size business subjects indicated in Part 3 of Article 14 of the Federal Law No. 209-FZ of July 24, 2007, and small and medium-size business subjects engaged in production and processing of minerals (except for generally used minerals). In that case the said lease contracts, indicated in this part, shall be concluded for a period of at most until July 1, 2010*

1. The conclusion of lease contracts, contracts for use without compensation, trust contracts and other contracts that envisage the assignment of rights of possession and/or use in respect of the pieces of state or municipal property which have not been assigned by a right of economic jurisdiction or operative management may be effected only according to the results of tenders or auctions for a right to conclude the contracts, except for the grant of said rights to such pieces of property:

1) under international treaties of the Russian Federation (including inter-governmental agreements) and the federal laws that establish another procedure for disposing of such property, acts of the President of the Russian Federation, acts of the Government of the Russian Federation and courts' decisions that have become final;

2) state bodies, local self-government bodies and also state non-budget funds and the Central Bank of the Russian Federation;

3) state and municipal institutions;

4) non-profit organisations formed as associations and unions, religious and public organisations (associations) (including political parties, public movements, public foundations, public institutions, public self-organised activity bodies, trade unions, their agglomerations (associations) and primary trade union organisations), employers unions and partnerships of the owners of dwelling facilities, people-centered non-profit organisations, provided that they are engaged in activities aimed at solving social problems, development of civil society in the Russian Federation, as well as the other kinds of activities provided for by Article 31.1 of Federal Law No. 7-FZ of January 12, 1996 on Non-Profit Organisations;

5) solicitors/barristers, notaries and industry-and-commerce chambers;

6) educational institutions, irrespective of the organisational legal forms thereof, including the state and municipal educational institutions and public health-care medical institutions mentioned in Item 3 of the present part;

7) for the purpose of placing communication networks and postal communication facilities;

8) to a person who has rights of possession and/or use in respect of a utility line if the property being assigned is a part of the relevant utility line and the given part of the utility line and the utility line are technologically interrelated in accordance with the legislation on the town-planning activity;

9) in the procedure established by Chapter 5 of the present Federal Law;



10) to the person with whom a state or municipal contract has been concluded according to the results of a tender or auction conducted in accordance with [Federal Law No. 94-FZ of July 21, 2005 on the Placement of Orders for the Delivery of Goods, Performance of Works and Provision of Services for State and Municipal Needs](#) if a provision for the assignment of said rights has been made in the tender documentation or auction documentation for the purposes of performing that state or municipal contract. The term for the assignment of said rights to such property shall not exceed the term for the completion of performance of the state or municipal contract;

11) for a term not exceeding 30 calendar days in six consecutive calendar months (the grant of said rights to such property to one person for an aggregate term of over 30 calendar days in six consecutive calendar months without tenders or auctions is prohibited);

12) in place of immovable property the rights in respect of which are terminated due to demolition or renovation of the building, structure or installation which is or a part of which is that immovable property or in connection with the grant of rights to such immovable property to state or municipal educational institutions or medical institutions. In this case, the immovable property to which the rights are assigned must be equivalent to the immovable property that has been earlier available in terms of location, area and value assessed in accordance with the [legislation](#) of the Russian Federation regulating appraisal activities. The conditions in which immovable property is deemed equivalent to immovable property that has been earlier available shall be established by the federal anti-monopoly body;

13) to a successor of a privatised unitary enterprise, if the property has not been included in the privatised unitary enterprise's assets subject to privatisation but is technologically and functionally connected to the privatised assets and is classified under [federal laws](#) as civil-law items not subject to transactions or as items which can be only under state or municipal ownership.

14) which form part or parts of premises, building, construction or structure, if the total area of the property to be transferred is at most twenty square meters and does not exceed ten per cent of the area of the appropriate premises, building, construction or structure the rights to which are held by the person transferring such property;

15) to the person that has filed the only bid for participation in a tender or auction, if the cited bid satisfies the requirements and conditions provided for by tender documentation or auction documentation, and also to the person recognized to be the only participant in a tender or auction under the conditions and at the price which are provided for by a bid for participation in the tender or auction and the tender documentation or auction documentation but at the price which is not below the initial (minimum) contract (lot) price cited in a notice of holding the tender or auction. With this, the trade promoter shall make the contracts provided for by this part without fail;

16) transferred for sublease or for gratuitous use by the person to which the right of possession and/or use of state or municipal property are granted on the basis of the results of sales, or in case such sales have been declared frustrated, or if the cited rights are granted on the basis of a state or municipal contract or on the basis of [Item 1](#) of this part.

**2.** The procedure for concluding contracts described in [Part 1](#) of the present article does not extend to the property disposed of in accordance with the [Land Code](#) of the Russian Federation, the [Water Code](#) of the Russian Federation, the [Forest Code](#) of the Russian Federation, the [legislation](#) of the Russian Federation on the sub-soil and the [legislation](#) of the Russian Federation on concession agreements.

*According to Part 4 of Article 53 of this Federal Law, it shall be admissible to conclude for a new period without holding tenders lease contracts indicated in Parts 1 and 3 of Article 17.1 of this Federal Law and concluded before July 1, 2008 with small and medium-size business subjects, except for the small and medium-size business subjects indicated in Part 3 of Article 14 of the Federal Law No. 209-FZ of July 24, 2007, and small and medium-size business subjects engaged in production and processing of minerals (except for generally used minerals). In that case the said lease contracts, indicated in this part, shall be concluded for a period of at most until July 1, 2010*

**3.** The procedure set out in Part 1 of the present article shall govern the conclusion of lease contracts, contracts for use without compensation and other contracts envisaging assignment of rights of possession and/or use in respect of:

1) the state or municipal immovable property that belongs to state or municipal unitary enterprises by a right of economic jurisdiction or operative management;

2) the state or municipal immovable property assigned by a right of operative management to independent state or municipal institutions;

3) the state or municipal property belonging to state or municipal budget-financed and public institutions, and also to state bodies and local authorities, by a right of operative management.

**3.1.** Contracts of lease in respect of the state or municipal property of governmental educational establishments of higher vocational education (including those which are set up by state academies of science) or municipal educational establishments of higher vocational education, governmental scientific institutions (including those which are set up by state academies of science) shall be made without holding tenders or auctions in the procedure and under the terms which are defined by the Government of the Russian Federation, provided that the following requirements are concurrently satisfied:

1) the leaseholders are economic companies set up by the establishments which are cited in Paragraph One of this article;

2) the leaseholders' activities lie in the practical application (introduction) of the results of intellectual activities (computer programmes, databases, inventions, utility models, industrial designs, selectional achievements, integral circuit layouts or manufacturing secrets (know-how) whose right of use is contributed to the authorised capitals thereof;

3) contracts of lease impose a ban on letting on lease and sublease this property provided to economic companies under such contracts of lease, on transfer by economic companies of their rights and duties under such contracts of lease to other persons, on providing this property for gratuitous use and on pledge of such rights of lease.

#### **4. Abrogated.**

*In accordance with Part 3 of Article 53 of this Federal Law until the procedure envisaged by Part 5 of Article 17.1 of the present Federal Law for holding tenders or auctions for a right to conclude the contracts specified in Parts 1 and 3 of Article 17.1 of the present Federal Law is established tenders for a right to conclude such contracts shall be conducted in the procedure established by Federal Law No. 115-FZ of July 21, 2005 on Concession Agreements, and auctions for a right to conclude such contracts shall be conducted in the procedure established by Federal Law No. 178-FZ of December 21, 2001 on the Privatisation of State and Municipal Property*

**5.** The procedure for conducting tenders or auctions for the right to conclude the

contracts mentioned in **Parts 1 and 3** of the present article and a list of the types of property in respect of which said contracts may be concluded by means of a sale in the form of a tender shall be established by the federal anti-monopoly body.

**5.1.** In compliance with **Part 6** of this article a notice of holding a tender shall be placed at least thirty days before the end date for filing applications for participation in the tender while a notice of holding an auction shall be placed at least twenty days before the end date of filing applications for participation in the auction.

**6.** Starting from January 1, 2011, information on the holding of tenders or auctions for the right to conclude the contracts specified in **Parts 1 and 3** of the present article shall be placed on the official internet website of the Russian Federation intended for information on public sales designated by the Government of the Russian Federation (hereinafter referred to as the official site of sales).

**7.** It is not allowed to make the agreements cited in **Parts 1 and 3** of this article earlier than in ten days as from the date when information about the results of a tender or auction is inserted in the official site of sales.

**8.** When concluding and/or executing the contracts cited in **Parts 1 and 3** of this article, their price may be increased as agreed by the parties thereto in the procedure established by a contract.

**9.** Upon the expiry of validity term of the agreement cited in **Parts 1 and 3** of this article such contract shall be made for a new term with a leaseholder that has discharged the duties thereof in a proper way without holding a tender or an auction, if not otherwise established by the contract and if the validity term of an agreement is not limited by the legislation of the Russian Federation, provided that the following conditions are concurrently met:

1) the rate of rent shall be estimated on the basis of the results of assessment of the market value of a facility effected in compliance with the legislation regulating valuation activity in the Russian Federation, if not otherwise established by some other legislation of the Russian Federation;

2) the minimum time period for which a contract of lease is re-concluded must be at least three years. This time period may be only reduced on the basis of a leaseholder's application.

**10.** The lesser is not entitled to deny a leaseholder the conclusion of a contract of lease for a new term in the procedure and under the terms which are cited in **Part 9** of this article, except for the following instances:

1) adoption in the established procedure of the decision providing for a different procedure for such property's disposal;

2) the leaseholder having debts on rent for such property or on charged forfeits (fines, penalties) in the amount exceeding the rate of rent for more than one period of payment fixed by a contract of lease.

**11.** In the event of the lessor's refusal to make for a new term the contract of lease cited in **Parts 1 and 3** of this article on the grounds which are not provided for by **Part 10** of this article and of the conclusion within a year since the end date of the validity term of the given contract a contract of lease with another person, the leaseholder that has property discharged the duties thereof under the contract of lease is entitled to demand to transfer upon him the rights and duties under the contract made and to repair the damages inflicted by the refusal to renew with

him the contract of lease in compliance with the civil legislation.

**Article 18.** The Specifics of Making Contracts with Financial Organisations

**1.** The federal executive bodies, executive bodies of constituent entities of the Russian Federation, local self-government bodies and state off-budget funds shall make, regardless of the amount of a transaction, contracts with financial organisations solely on the basis of the results of a public tender or public auction to be held in compliance with the provisions of the **federal law** on placing orders to supply goods, carry out works and render services to meet state and municipal needs for rendering the following financial services:

- 1) attraction of monetary funds of legal entities for depositing;
- 2) opening and keeping of bank accounts, making settlements on these accounts;
- 3) services involved in keeping a register of securities' owners;
- 4) trust management of securities;
- 5) non-governmental retirement insurance.

**2.** When holding a public tender or public auction in compliance with the requirements of this article, a federal executive power body, the executive state power body of a constituent entity of the Russian Federation, local authority or a governmental off-budget fund are entitled to establish the requirements aimed at assessing the financial stability and solvency of a financial organisation, except for the requirements about the availability of the following:

1) of the definite amount of the authorised capital, own assets, as well as about the compliance of a financial organisation and/or of the activities thereof with other characteristics in absolute indices, if only the requirement for compliance with such characteristics is not established by the legislation of the Russian Federation;

2) rating of Russian and international rating agencies;

3) branches, representative offices and other structural units outside the place of rendering a financial service.

**3.** The alteration and dissolution of contracts of rendering financial services made by federal executive power bodies, executive power bodies of constituent entities of the Russian Federation, local authorities and state off-budget funds in the procedure established by this article shall be allowed in the instances and in the procedure which are set by **Federal Law No. 94-FZ** of July 21, 2005 on Placing Orders to Supply Goods, Carry out Works and Render Services for Meeting State and Municipal Needs.

**4.** The validity term of contracts of rendering financial services made in the procedure established by **Part 1** of this article (except for contracts of non-governmental pension provision) may not exceed five years, if not otherwise provided for by other federal laws.

**5.** The violation of this article's provisions shall serve as a ground for declaring invalid by court the appropriate sales or the transactions made on the basis of the results of such sales, in particular at the suit of an anti-monopoly agency.

**Article 18.1.** A Procedure for Consideration by an Anti-Monopoly Agency Complaints against Violation of a Process of Sales and a Process of Making Contracts

**1.** According to the rules of this article, an anti-monopoly agency shall consider complaints against actions (omission to act) of the trade promoter, electronic site operator, tender or auction commission when arranging and holding sales, making contracts on the basis of the results of sales, or in case sales whose holding is mandatory in compliance with the legislation of the Russian Federation are recognized as frustrated, except for the complaints whose consideration is provided for by the **legislation** of the Russian Federation on placing orders to supply goods, carry out works and render services for meeting state and municipal needs.

**2.** Actions (omission to act) of the trade promoter, the electronic site operator, tender or

auction commission may be complained against with an anti-monopoly agency by the persons that have filed bids for participation in sales and, if such complaining is connected with violation of the procedure for placing information about holding sales or of the procedure for filing bids for participation in sales established by regulatory legal acts, also by other person (applicant) whose rights or legitimate interests may be infringed or violated as a result of breaking the procedure for arranging and holding sales (hereinafter referred to in this article as applicant).

**3.** Complaining against actions (omission to act) of the trade promoter electronic site operator, tender or auction commission with an anti-monopoly agency shall not be an obstacle for complaining against these actions (omission to act) judicially.

**4.** Complaining against actions (omission to act) of the trade promoter, the electronic site operator, tender or auction commission in the procedure established by this article shall be allowed at latest in ten days as from the date of summing up the sales results or, if the insertion of sales results in the information-telecommunication network Internet is provided for, as from the date of such insertion, except as provided for by this **Federal Law**.

**5.** Where a contract is not made on the basis of the results of sales or in case sales are declared frustrated, it is allowed to complain against actions (omission to act) of the trade promoter, electronic site operator, tender or auction commission with an anti-monopoly agency in the procedure established by this article within three months as from the date when the sales results are summed up or, if the insertion of sales results in the information-telecommunication network Internet is provided for, as from the date of such insertion.

**6.** A complaint against actions (omission to act) of the trade promoter, electronic site operator, tender or auction commission (hereinafter referred to as complaint) shall be filed in writing with an anti-monopoly agency and must contain the following:

1) the denomination, indication of the location, postal address and contact telephone number of the trade promoter, electronic site operator, tender or auction commission whose actions (omission to act) are complained against;

2) the applicant's denomination, data on the location (if a legal entity), family name, first name and patronymic, data on the place of residence (if a legal entity), postal address, e-mail address, contact telephone number and fax number;

3) an indication of the sales which are complained against, if the insertion of information on the sales which are complained against in the site in the information-telecommunication system Internet is mandatory in compliance with the legislation of the Russian Federation, the address of the site where it is inserted;

4) an indication of the actions (omission to act) of the trade promoter, electronic site operator, tender or auction commission which are complained against and appropriate arguments;

5) a list of documents attached to the complaint.

**7.** A complaint may be forwarded to an anti-monopoly agency by postal or facsimile communication, e-mail or in some other way.

**8.** A complaint shall be signed by the applicant or by a representative thereof. A complaint filed by a representative of the applicant must have attached thereto a letter of attorney or other document proving the authority of the applicant's representative to sign the complaint.

**9.** A complaint shall be returned to an applicant in the following instances:

1) a complaint does not contain the data provided for by **Part 6** of this article;

2) a complaint is not signed or is signed by the person whose authority is not proved by documents;

3) availability of the effective judicial act containing conclusions about the presence or absence of a violation in the actions (omission to act) of the trade promoter, electronic site operator, tender or auction commission;



4) an anti-monopoly agency has rendered a decision in respect of the actions (omission to act) of the trade promoter, electronic site operator, tender or auction commission.

**10.** The decision to return a complaint may be adopted within three working days as from the date when it comes to an anti-monopoly agency which on the date of adoption of the decision on the complaint's return is obliged to notify the applicant in writing about the adopted decision citing the reasons for the complaint's return.

**11.** In the event of acceptance of a complaint for consideration, an anti-monopoly agency shall insert within three working days as from the date of receiving it information about receiving the complaint and about its content in the official site of sales or in the site of the anti-monopoly agency, shall forward to the applicant, the trade promoter, electronic site operator, tender or auction commission a notice of receiving the complaint and of suspending sales pending consideration of the complaint on its merits (hereinafter referred to in this article as notice). In the notice shall be stated in brief the content of the complaint (the subject matter thereof), address of the official site of sales where information about the complaint's receipt is inserted or of the site of the anti-monopoly agency, as well as data on the place and time of the complaint's consideration. The notice shall be forwarded by postal or facsimile communication. In case of forwarding a notice by e-mail, it shall be sent to the trade promoter and to the tender or auction commission to the e-mail address cited in the notice of holding sales, to the electronic site operator to the e-mail address stated in the Internet site, and to the applicant to the e-mail address mentioned in the complaint.

**12.** The trade promoter, electronic site operator, tender or auction commission, whose actions (omission to act) are complained against, within one working days as from the time of receiving a notice is obliged to notify the persons, that have filed bids for participation in sales, about its coming in, its content, place and time of its consideration.

**13.** The trade promoter, electronic site operator, tender or auction commission and the applicant, as well as the persons that have filed bids for participation in sales, are entitled to forward to an anti-monopoly agency an objection against a complaint or an addition to it and to participate in its consideration in person or through representatives thereof. An objection against a complaint must contain the data cited in [Part 6](#) of this article. An objection against a complaint shall be forwarded to an anti-monopoly agency at latest two working days before the date of the complaint's consideration.

**14.** An anti-monopoly agency is obliged to consider a complaint on its merits within seven working days as from the date when it is received.

**15.** The trade promoter, electronic site operator, tender or auction commission, whose actions (omission to act) are complained against, are obliged to present for consideration of the complaint on its merits sales documentation, the amendments made in the sales documentation, auction documentation, bids for participation in a tender, bids for participation in an auction, records of opening envelopes with bids for participation in a tender, records of opening envelopes with bids for participation in an auction, records of assessment and comparison of bids for participation in an auction and records of an auction, audio and video records, as well as other documents and data drawn up in the course of arranging and holding sales.

**16.** A complaint shall be considered on its merits by the commission of an anti-monopoly agency. The non-appearance of persons who have been properly notified (notified by way of forwarding by the anti-monopoly agency the notice provided for by [Part 11](#) of this article) about the time and place of the complaint's consideration on its merits shall not serve as an obstacle for such consideration.

**17.** When considering a complaint on its merits, the commission of an anti-monopoly agency shall consider the actions (omission to act) of the trade promoter, electronic site operator, tender or auction commission being complained against. If in the course of

considering the complaint the commission of the anti-monopoly agency detects other violations in the actions (omission to act) of the trade promoter, electronic site operator, tender or auction commission, the commission of the anti-monopoly agency shall render a decision subject to all the detected violations.

**18.** As from the date of forwarding the notice provided for by **Part 11** of this article sales shall be suspended pending consideration of the complaint against actions (omission to act) of the trade promoter, electronic site operator, tender or auction commission on its merits.

**19.** In the event of accepting a complaint for consideration, the trade promoter, to which a notice has been forwarded in the procedure established by **Part 11** of this Article, is not entitled to make a contract before adoption by the anti-monopoly agency of a decision in respect of the complaint. A contract made in defiance of the requirements established by this item shall be deemed null and void,

**20.** On the basis of the results of considering a complaint on its merits the commission of an anti-monopoly agency shall render the decision on declaring it either well-founded or unfounded and, if a complaint is declared as well-founded or if any other violations are detected which do not constitute the subject matter of complaining (violations of the procedure for arranging and holding sales, for making contracts on the basis of the results of sales or in case sales are declared frustrated) shall render the decision that it is necessary to issue the direction provided for by **Item 3.1 of Part 1 of Article 23** of this Federal Law.

**21.** The commission shall terminate consideration of a complaint as it is provided for by **Items 3 and 4 of Part 9** of this article.

**22.** Within three working days as from the date of adoption of a decision in respect of a complaint an anti-monopoly agency shall forward to the applicant, the trade promoter, electronic site operator, tender or auction commission whose actions (omission to act) are being complained against copies of the decision or direction adopted on the basis of the results of the complaint's consideration and shall insert data on such decision or direction in the official site of sales or in the site of the anti-monopoly agency.

**23.** The decision or direction of the commission of an anti-monopoly agency may be complained against judicially within three months as from the date of the decision's adoption or of the direction's issuance.

**24.** An applicant is entitled to withdraw a complaint before adoption of a decision on the complaint's merits. An applicant that has withdrawn the complaint filed by him is not entitled to repeatedly file a complaint against the same actions (omission to act) of the trade promoter, electronic site operator, tender or auction commission in the procedure established by this article.

**25.** An anti-monopoly agency shall consider complaints against actions (omission to act) of the seller of state or municipal property and/or of the promoter of trading in state or municipal property held in the electronic form (hereinafter referred to in this article, as well as in **Item 3.1 of Part 1 of Article 23** of this Federal Law, as the sales promoter) when selling state or municipal property in compliance with **Federal Law** No. 178-FZ of December 21, 2001 on Privatisation of State and Municipal Property in the procedure established by this article, subject to the following specifics:

1) it is allowed to complain against actions (omission to act) of the seller of state or municipal property and/or the sales promoter with an anti-monopoly agency within five working days as from the date of inserting in the official site in the information-telecommunication network Internet designated in compliance with Article 15 of Federal Law No. 178-FZ of December 21, 2001 on Privatisation of State and Municipal Property or, if the insertion in the given site is not provided for, as from the date of signing a record of declaring applicants as sales participants (a record of declaring applicants as participants in sales when selling state or municipal property by way of public offering or with no price declared), or within five working

days as from the date of inserting in the given site or, if the insertion in the given site is not provided for, as from the date of signing a record of the results of holding sales of the property which is subject to privatization;

2) a complaint against actions (omission to act) of the seller of state or municipal property and/or the sales organiser shall be considered by an anti-monopoly agency within five working days as of from the date when the complaint is received;

3) if a complaint against actions (omission to act) of the seller of state or municipal property and/or sales organiser is considered before the last date for filing bids for participation in sales (bids for participation in sales when selling state or municipal property by way of public offering or with no price declared), the commission of the anti-monopoly agency is not entitled to render the decision on the issuance of a direction;

4) a complaint against actions (omission to act) of the seller of state or municipal property and/or sales organiser connected with declaring applicants as sales participants (participants in sales when selling state or municipal property by way of public offering or with no price declared) or with the denial of such declaring may not be filed upon the expiry of five working days as from the date of insertion in the official site in the information-telecommunication network Internet cited in [Item 1](#) of this part or, if the insertion in the site is not provided for, as from the date of signing a record of declaring applicants as sales participants ( a record of declaring applicants as participants in sales when selling state or municipal property by way of public offering or with no price declared).

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

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

**1.** State or municipal preferences may be granted on the basis of legal acts of a federal executive power body, state power body of a constituent entity of the Russian Federation, local authority, other body or organisation exercising the functions of the said bodies, solely for the purpose of the following:

- 1) life support to the population of Arctic regions and of those equated to them;
- 2) development of education and science;
- 3) scientific research works;
- 4) environmental protection;
- 5) preservation, use, popularization and state protection of cultural heritage units (of historical and cultural monuments) of peoples of the Russian Federation;
- 6) development of culture, arts and preservation of cultural valuables;
- 7) development of physical training and sports;
- 8) enhancing the country's defence capacity and security of the State;
- 9) making agricultural products;

10) social maintenance of the population;

11) labour protection;

12) public health care;

13) support to small-scale and medium-scale businesses;

13.1) support to people-centered non-profit organisations in compliance with [Federal Law No. 7-FZ of January 12, 1996 on Non-Profit Organisations](#);

14) for accomplishing the tasks defined by other federal laws, regulatory legal acts of the

President of the Russian Federation and regulatory legal acts of the Government of the Russian Federation.

2. It shall be forbidden to use state or municipal preferences for purposes which are at variance with those cited in the application for giving consent to grant state or municipal preferences.

3. A state or municipal preference shall be granted for the purposes provided for by **Part 1** of this Article by preliminary approbation in writing by the anti-monopoly agency, except if such preference is granted:

1) on the basis of the federal law, legal act of the President of the Russian Federation, legal act of the Government of the Russian Federation, laws of constituent entities of the Russian Federation on the budget, regulatory legal acts of local authorities on the budget containing or establishing a procedure for defining the rate of a state or municipal preference and a specific recipient thereof;

2) by way of forwarding assets of reserve funds in compliance with the **budget legislation** of the Russian Federation to cover unforeseen financial outlays;

3) at a rate not exceeding the limit amount of settlements in cash in the Russian Federation between legal entities in respect of a single transaction, established by the Central Bank of the Russian Federation, if such preference is granted at most once a year to a single person.

4) in compliance with federal programmes of development of small-scale and medium-scale business entities, regional programmes of development of small-scale and medium-scale business entities, municipal and intermunicipal programmes of development of small-scale and medium-scale business entities.

4. As a state or municipal preference shall not be deemed:

1) granting of property and/or other objects of civil rights on the basis of the results of an auction arranged in compliance with the **legislation** of the Russian Federation, as well as on the basis of other procedures provided for by the legislation of the Russian Federation on placing orders to supply commodities, carry out works and render services to meet state and municipal needs;

2) transfer, allotment and distribution of state or municipal property to individuals for the purpose of liquidation of consequences of emergency situations, military operations and counterterrorism operations;

3) assignment of state or municipal property to economic agents for economic control over it or its day-to-day management;

4) granting property and/or other objects of civil rights on the basis of federal law or on the basis of an effective court decision.

5) provision of property and/or other objects of civil rights to each participant in a commodity market on the equal basis.

#### **Article 20.** Procedure for Granting a State or Municipal Preference

1. The federal executive power body, the state power body of a constituent entity of the Russian Federation, other bodies and organisations exercising the functions of the said bodies which intend to grant a state or municipal preference shall file with an anti-monopoly agency an application for giving consent to grant such preference according to the form defined by the federal anti-monopoly agency. The following shall be attached to the cited application:

1) a draft act which provides for granting the state or municipal preference citing the aim

of granting, and amount of such preference if it is granted by way of property transfer;

2) a list of the kinds of activities which were exercised or are exercised by the economic agent in respect of which there is an intention to grant a state or municipal preference with the two years preceding the date when the application is filed or within the time period while the activity is exercised, if it is less than two years, as well as copies of the documents that prove and/or proved the right to exercise the said kinds of activities, if special permits are required and/or were required for its exercise under the **legislation** of the Russian Federation;

3) denominations of the kinds of commodities and volume of commodities made and/or sold by the economic agent in respect of which there is an intention to grant thereto a state or municipal preference within the two years preceding the date when the application is filed or within the time period while it is exercised, if it is less than two years, citing codes of the kinds of products;

4) the accounting balance sheet of the economic agent in respect of which there is an intention to grant thereto a state or municipal preference, as of the last accounting date preceding the date when the application is filed or, if the economic agent does not submit the accounting balance sheet to tax authorities, other documentation on taxes and fees provided for by the **legislation** of the Russian Federation on taxes and fees;

5) a list of the persons forming the same group of persons with the economic agent in respect of which there is an intention to grant thereto a state or municipal preference citing the grounds for pertinence of such persons to this group;

6) copies of the constituent documents of the economic agent attested by a notary.

**2.** The anti-monopoly agency shall consider the filed application for granting consent to a state or municipal preference and documents and shall adopt one of the decisions cited in **Part 3** of this Article within the time period of at most one month as of the date when such application and documents are received. If the filed application and/or documents do not comply with the requirements established by **Part 1** of this Article, the anti-monopoly agency within ten days as of the date when the said application is received shall render a reasoned decision on non-conformity of the filed application and/or documents in the procedure established by the federal anti-monopoly agency and shall return the application for giving consent to granting the state or municipal preference by registered mail with delivery confirmation with a copy of such decision attested in the established procedure to be attached thereto. With this, the time period of custody of the presented documents by the anti-monopoly agency, within which the applicant is entitled to obtain them on demand, shall be fourteen days as of the date when the applicant receives a notification of it. If in the course of considering the application for giving consent to granting a state or municipal preference an anti-monopoly agency comes to the conclusion that the actions, for whose making the anti-monopoly agency's consent is requested for, do not constitute a state or municipal preference, the anti-monopoly agency, within a ten-day-term as of the date when the said application is filed in the procedure established by the anti-monopoly agency, shall adopt a decision that the anti-monopoly agency's consent to making such actions is not required and shall notify the applicant of the adoption of such decision by registered mail, with delivery confirmation, attaching thereto a copy of the said decision certified in the established procedure.

**3.** An anti-monopoly agency on the basis of the results of considering the application for giving consent to granting of a state or municipal preference in the procedure established by the anti-monopoly agency shall adopt one of the following reasoned decisions and shall notify the applicant of the date when the cited decision is adopted by registered mail, with delivery confirmation attaching thereto a copy of the cited decision attested in the established procedure:

1) on giving consent to granting the state or municipal preference, if the state or municipal preference is to be granted for the purposes cited in **Part 1 of Article 19** of this Federal Law and its granting cannot lead to elimination or prevention of competition;



2) on extending the time period for consideration of the application, if in the course of its consideration the anti-monopoly agency comes to the conclusion that granting of such preference could lead to elimination or prevention of competition, or that such preference may not correspond to the purposes cited in **Part 1 of Article 19** of this Federal Law and it is necessary to obtain additional information for adoption of the decision provided for by **Items 1, 3 or 4 of this Part**. Subject to the said decision, the time period for consideration of this application may be extended by at most two months;

3) on the refusal to grant the state or municipal preference, if the state or municipal preference does not comply with the aims cited in **Part 1 of Article 19** of this Federal Law and if its granting can lead to elimination or prevention of competition;

4) on giving consent to granting the state or municipal preference and imposing a restriction in respect of granting the state or municipal preference. Such reasoned decision with a substantiation of the imposition of the restriction or restrictions stated therein shall be adopted by the state anti-monopoly agency for ensuring the conformity of the state or municipal preference to the aims cited in **Part 1 of Article 19** of this Federal Law and for a reduction of its negative impact upon competition. As restrictions may be deemed the following:

- a) a deadline for granting a state or municipal preference;
- b) a circle of persons which a state or municipal preference may be granted to;
- c) the rate of a state or municipal preference;
- d) purposes for granting a state or municipal preference;
- e) other restrictions whose imposition could affect the state of competition.

**4.** Where the decision on giving consent to granting a state or municipal preference is adopted in compliance with **Item 4 of Part 3** of this article, the applicant shall be obliged to file the documents proving observance of the cited restrictions, whose list shall be established by the anti-monopoly agency within a one-month term as of the date when the state or municipal preference is granted.

#### **Article 21.** Effects of Failing to Comply with the Requirements of This Federal Law When Granting and/or Using a State or Municipal Preference

If an anti-monopoly agency, while exercising control over the granting and the use of a state or municipal preference in the procedure established by the federal anti-monopoly agency finds that there are the facts of granting preferences in defiance of the procedure established by **Article 20** of this Federal Law, or its use does not comply with the aims declared in the application for it, the anti-monopoly agency shall issue to the economic agent which such preference is granted to, to the federal executive power body, the executive body of a constituent entity of the Russian Federation, local authority or other bodies and organisations exercising the functions of the cited bodies that have granted such preference an order to take measures aimed at the return of property and other objects of civil rights, provided that the state or municipal preference has been granted by way of transfer of state or municipal property or other objects of civil rights, or an order to take measures aimed at termination of the use of the advantage by the economic agent that received the state or municipal preference, provided that the state or municipal preference has been granted in a different form.

### **Chapter 6. Functions and Scope of Authority of the Anti-Monopoly Body**

#### **Article 22.** Functions of the Anti-Monopoly Body

The anti-monopoly body shall exercise the following basic functions:

1) shall ensure state control over the observance of the anti-monopoly legislation by the federal executive bodies, state power bodies of the constituent entities of the Russian

Federation, local self-government bodies or other bodies or organisations exercising the functions of the said bodies, as well as by the state off-budget funds, economic units and natural persons, in particular over the use of land, subsoil, water resources and other natural resources;

2) shall uncover violations of anti-monopoly legislation, take measures aimed at terminating violations of the anti-monopoly legislation and make answerable for such violations;

3) shall prevent monopolistic activities, unfair competition and other violations of anti-monopoly legislation by federal executive bodies, state power bodies of the constituent entities of the Russian Federation, local self-government bodies and other bodies or organisations exercising the functions of the said bodies, as well as by the state off-budget funds, economic units and natural persons;

4) shall exercise state control over economic concentration, in particular in the field of using land, subsoil, water resources and other natural resources, as well as when holding auctions where it is provided for by federal laws.

### **Article 23.** Authority of the Anti-Monopoly Body

**1.** The anti-monopoly body shall exercise the following authority:

1) shall initiate legal proceedings and consider cases on violations of the anti-monopoly legislation;

2) shall issue to economic units in the cases, specified by this Federal Law, orders to be followed without fail:

a) to terminate agreements and (or) concerted actions of economic units restricting competition and to take actions aimed at ensuring competition;

b) to terminate abuse by an economic unit its dominant position and to take actions aimed at ensuring competition;

c) to terminate for breach of rules on the non-discriminatory access to goods;

d) to terminate unfair competition;

e) to bar actions which could raise barriers to the emergence of competition and (or) can lead to the barring or elimination of competition and to breaches of the anti-monopoly legislation;

f) to remove the effects of breaches of anti-monopoly legislation;

g) to terminate other violations of anti-monopoly legislation;

h) to restore the situation preceding a breach of anti-monopoly legislation;

i) to make contracts, to change the terms and conditions of contracts or to dissolve contracts, if, when considering by the anti-monopoly body a case on breaching the anti-monopoly legislation by persons whose rights have been violated or can be violated, the appropriate application was made, or in the event of exercising by the anti-monopoly body state control over economic concentration;

j) to remit to the federal budget the income derived as a result of breaching the anti-monopoly legislation;

k) to change, or limit the use of, the firm's name if, when considering by the anti-monopoly body a case on breaching the anti-monopoly legislation by the persons whose rights have been violated or may be violated, the appropriate application was made, or in the event of exercising by the anti-monopoly body of state control over economic concentration;

l) to comply with economic, technological, informational and other requirements for elimination of discriminating conditions and to prevent their creation;

m) to make actions aimed at ensuring competition, in particular at providing in the procedure established by the federal laws and other normative legal acts, access to production facilities or information, to grant in the procedure established by federal laws or other normative

legal acts the rights to objects of industrial property protection, to transfer the rights to property or to ban the transfer of the rights to property, to inform the anti-monopoly body in advance about the intention to take the actions provided for by an order, about the sale of a certain volume of products through a commodity exchange, about a preliminary coordination with the anti-monopoly agency of the specifics of forming the starting price of products when sold through a commodity exchange in the procedure established by the Government of the Russian Federation;

3) shall issue to the federal executive bodies, executive bodies of the constituent entities of the Russian Federation, local self-government bodies, other bodies or organisations exercising the functions of the said bodies, as well as to the state off-budget funds and to their officials, the following orders to be followed without fail, except for the cases established by [Item 4](#) of this Part:

- a) to reverse or modify acts breaching the anti-monopoly legislation;
- b) to terminate or modify agreements breaching the anti-monopoly legislation;

c) to terminate other violations of the anti-monopoly legislation, in particular to take measures aimed at property return and other objects of civil rights granted as a state or municipal preference;

- d) to take actions aimed at ensuring competition;

3.1) shall issue to the sales promoter, tender or auction commission, seller of state or municipal property and sales organiser directions to be followed without fail as to making actions aimed at removing violations of the procedure for arranging and holding sales, for sales of state or municipal property (hereinafter referred to in this item as sales), of the procedure for making contracts on the basis of the results of sales or, should sales be declared frustrated, also directions to cancel the records drawn up in the course of holding sales, to make amendments in the sales documentation and a notice of holding sales or to cancel sales;

3.2) shall issue admonitions as to the termination of actions (omission to act) that contain signs of breaching the anti-monopoly legislation as provided for by this Federal Law;

4) shall send to the federal executive body in charge of the securities market and the Central Bank of the Russian Federation proposals as to bringing into accord with the anti-monopoly legislation the acts adopted by them and (or) to termination of actions, if such acts and (or) such actions violate the anti-monopoly legislation;

4.1) shall forward admonitions signed by the head or deputy head of the anti-monopoly agency as to the inadmissibility of breaching the anti-monopoly legislation by officials of economic agents who publicly announce about their planned behavior in a commodity market, if such behavior can lead to violation of the anti-monopoly legislation;

4.2) shall consider complaints against violation of the procedure for holding sales or sales of state or municipal property which are mandatory in compliance with the legislation of the Russian Federation;

5) shall make answerable for breaching the anti-monopoly legislation profit-making organisations and non-profit organisations, officials thereof, officials of the federal executive bodies, executive bodies of the constituent entities of the Russian Federation, local self-government bodies, agencies or organisations exercising the functions of the said bodies, as well as officials of the state off-budget funds and natural persons, including individual businessmen, in the cases and in the procedure which are established by the legislation of the Russian Federation;

6) shall make claims and file applications with an arbitration court concerning violations of the anti-monopoly legislation, including claims and applications for the following:

a) for declaring ineffective or invalid in full or in part the normative legal acts or non-normative legal acts contravening the anti-monopoly legislation, in particular those creating groundless obstacles for the exercise of business activities, which are issued by the federal executive power bodies, state power bodies of constituent entities of the Russian Federation, local self-government bodies, other agencies or organisations exercising the functions of the said bodies, as well as by the state off-budget funds and the Central Bank of the Russian Federation;

b) for declaring invalid in full or in part the contracts not complying with anti-monopoly legislation;

c) for obligatory making of a contract;

d) for changing or dissolving a contract;

e) for liquidation of a legal entity in the cases provided for by anti-monopoly legislation;

f) for recovering to the benefit of the federal budget the income derived as a result of violating anti-monopoly legislation;

g) for making answerable for violations of anti-monopoly legislation the persons that have violated it;

h) for declaring an auction invalid;

i) for compelling to execute decisions and orders of the anti-monopoly body;

7) shall participate in trying by a court of law or by an arbitration court cases connected with application and (or) violations of anti-monopoly legislation;

8) shall keep:

a) the register of economic agents (except for financial organisations) whose share in the market of a certain commodity exceeds thirty five per cent or which hold the dominant position in the market of a certain commodity, if in respect of such market other federal laws, for the purpose of application thereof, establish cases when the position of economic agents is deemed to be dominant (hereinafter referred to as the register). A procedure for composing and keeping the register shall be established by the Government of the Russian Federation;

b) the register of persons that have been brought to administrative liability for breaching the anti-monopoly legislation. The data included in the cited register is not subject to publication in mass media and to insertion in the information-telecommunication system Internet. A procedure for composing and keeping the cited register shall be established by the Government of the Russian Federation;

9) shall place on the Internet website of the anti-monopoly body decisions and orders concerning the interests of an indefinite group of persons;

10) shall establish the dominant position of an economic unit when considering applications, materials, cases on breaching the anti-monopoly legislation and when exercising state control over economic concentration;

11) shall check the observance of the anti-monopoly legislation by profit-making organisations, non-profit organisations, the federal executive bodies, the state power bodies of the constituent entities of the Russian Federation, local self-government bodies, other agencies or organisations exercising the functions of the said bodies and natural persons, shall receive from them required documents and information, explanations in written or oral form, shall address in the procedure established by the legislation of the Russian Federation the bodies engaged in operative search activity for them taking operative search measures;

12) shall exercise control over activities of the legal entities engaged in arranging trade in the markets of certain commodities, for instance, in the market of electric energy (power) under the conditions of termination of the state control over the prices (tariffs) of such commodities, as well as shall exercise control over price manipulation in the wholesale and/or retail market of electric energy (power);

13) shall exercise other powers provided for by this Federal Law, other federal laws, decrees of the President of the Russian Federation and decisions of the Government of the Russian Federation.

2. Along with the powers specified in [Part 1](#) of this Article, the federal anti-monopoly body shall exercise the following authority:

1) shall endorse the forms of presenting to the anti-monopoly body data on making the transactions and (or) other actions provided for by [Article 32](#) of this Federal Law;

2) shall endorse by approbation of the Central Bank of the Russian Federation methods for determining an unreasonably high and unreasonably low prices of a service of a credit organisation;

3) shall endorse a procedure for analysis of the state of competition for the purpose of determining the dominant position of an economic unit and detecting other instances of barring, restricting or eliminating competition (a procedure for analysing the state of competition for the purpose of determining the dominant position of a credit organisation shall be endorsed by the federal anti-monopoly body by approbation of the Central Bank of the Russian Federation);

4) shall issue the normative legal acts provided for by this Federal Law;

5) shall give explanations in respect of the application by it of the anti-monopoly legislation;

*See the [Administrative Regulations of the Federal Anti-Monopoly Service on the Fulfilment of the State Function for Giving Explanations on the Issues Involved in Application by the Federal Anti-Monopoly Body of the Anti-Monopoly Legislation, approved by Order of the Federal Anti-Monopoly Service No. 442 of December 21, 2007](#)*

6) shall issue in the established procedure opinions in respect of the effects of special protective, antidumping and compensatory measures, the effects of alteration of customs duties upon competition in the commodity market of the Russian Federation;

7) shall introduce proposals to the licencing authorities as to the cancellation and withdrawal of licences for the exercise by the economic units violating the anti-monopoly legislation of certain types of activities, or as to the suspension of such licences;

8) shall cooperate with international organisations, the state power bodies of foreign states, participate in the development and implementation of international treaties of the Russian Federation, in the activities of inter-governmental or inter-departmental commissions coordinating the international cooperation of the Russian Federation, in the implementation of international programmes and projects concerning the protection of competition;

9) shall generalise and analyse the practices of applying the anti-monopoly legislation and shall devise recommendations as to the application thereof;

10) shall submit annually to the Government of the Russian Federation a report on the state of competition in the Russian Federation and shall place it on the Internet website of the anti-monopoly body.



**Article 24.** The Rights of an Anti-Monopoly Agency's Employees When Exercising Control over Observance of the Anti-Monopoly Legislation

When exercising control over observance of the anti-monopoly legislation, an anti-monopoly agency's employees in compliance with the authority conferred on them shall enjoy the right, upon producing their official identification cards and the order of the head of the anti-monopoly agency on an inspection of the observance of the anti-monopoly legislation (hereinafter referred to as an inspection), of free access to federal executive power bodies, executive power bodies of constituent entities of the Russian Federation, local self-government bodies, other bodies and organisations exercising the functions of the cited bodies, as well as to state extra-budgetary funds, profit-making and non-profit organisations for the obtainment of the documents and information which are necessary for the anti-monopoly agency.

**Article 25.** Duty of Presenting Information to the Anti-Monopoly Body

1. Profit-making organisations and non-profit organisations (officials thereof), federal executive power bodies (officials thereof), state power bodies of constituent entities of the Russian Federation (officials thereof), local self-government bodies (officials thereof), other agencies or organisations exercising the functions of the said bodies (officials hereof), as well as state extra-budgetary funds (officials thereof) and natural persons, including individual businessmen, shall be obliged to present to an anti-monopoly agency (to officials thereof) at a reasoned request thereof in due time the documents, explanations, information accordingly in written and oral forms (including information constituting commercial, official and other secrets protected by law), in particular acts, contracts, reference notes, business correspondence, other documents and materials made in the form of a digital record or in the form of a record made on electronic media which is necessary for the anti-monopoly agency in compliance with the authority placed upon it.

2. The Central Bank of the Russian Federation shall be obliged to present upon a request in writing of the anti-monopoly body the normative acts adopted by the Central Bank, as well as the information (except for information constituting a bank secret) required for analysing by the federal anti-monopoly body the state of competition in the market of services rendered by credit organisations and for exercising control over the state thereof.

3. Information constituting commercial, official or other secrets protected by law shall be presented to the anti-monopoly body in compliance with the requirements established by federal laws.

**Article 25.1.** Inspections Held by an Anti-Monopoly Agency

1. An anti-monopoly agency, for the purpose of exercising control over observance of the anti-monopoly legislation, shall be entitled to hold planned and extraordinary inspections of federal executive power bodies, state power bodies of constituent entities of the Russian Federation, local self-government bodies, other bodies or organisations exercising the functions of the cited bodies or organisations, as well as of off-budget funds, profit-making and non-profit organisations, natural persons, including individual businessmen (hereinafter also referred to as an inspected person). Non-profit organisations shall be inspected solely as to the observance by them of the provisions of Articles 10, 11, 14-17.1 and 19-21 of this Federal Law when they exercise business activities or coordinate economic activities of other economic agents. This Federal Law may not serve as a ground for checking the compliance of non-profit organisations' activities to the aims of their activities provided for by the constituent documents of such organisations. Planned and extraordinary inspections shall be held in the form of visiting inspections and desk audits.

**2.** As a ground for holding a planned inspection shall be deemed the expiry of three years as of the date of the following:

- 1) establishment of a legal entity or organisation, or the state registration of an individual businessman in the procedure established by the **legislation** of the Russian Federation;
- 2) the end of the last planned inspection of an inspected person held by an anti-monopoly agency.

**3.** A planned inspection shall be held at most once every three years. The subject of a planned inspection shall be the satisfaction by an inspected person of the requirements of the anti-monopoly legislation in the activities thereof.

**4.** As grounds for holding an extraordinary inspection shall be deemed the following:

- 1) materials coming from law enforcement bodies, other state bodies, local self-government bodies, public associations and showing the signs of breaching the anti-monopoly legislation;
- 2) reports and applications of natural persons, legal entities and mass media reports showing the signs of breaching the anti monopoly legislation;

3) expiry of the time period for execution of the order issued on the basis of the results of trying the case of breaching the anti-monopoly legislation, or when exercising the state control over economic concentration in the procedure established by **Chapter 7** of this Federal Law.

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

5) detecting by an anti-monopoly agency the signs of breaching the anti-monopoly legislation.

**5.** As the subject of an extraordinary inspection shall be deemed satisfaction of the requirements of the anti-monopoly legislation by an inspected persons in their activities or, if the ground for holding such inspection is **Item 3 of Part 4** of this article, execution of the previously issued order.

**6.** An inspection shall be held in compliance with an order of the head of an anti-monopoly agency.

**7.** The order of the head of an anti-monopoly agency to hold an inspection shall contain the following data:

- 1) denomination of the anti-monopoly agency;
- 2) full names and positions of the official or officials authorised to hold the inspection and of experts and representatives of expert organisations attracted for holding the inspection;
- 3) denomination of the legal entity or full name of the individual businessman which is to be inspected, address of the location or place of residence of the person to be inspected;
- 4) goals, tasks and subject of the inspection, as well as the time period for holding it;
- 5) legal grounds for holding the inspection;
- 6) time of exercising, and list of, control activities which are required for achieving the aims and accomplishing the tasks of the inspection;
- 7) list of administrative regulations on holding control activities;
- 8) starting date and end date of the inspection.

**8.** The model form of an order to hold an inspection shall be endorsed by the federal anti-monopoly body.

**9.** The time period for holding an inspection shall be at most a month from its starting date cited in the order up to the date when an inspection report is delivered or mailed to the inspected person. On extraordinary occasions the cited time period may be extended by two

months on the basis of reasoned proposals of the officials engaged in an inspection.

**10.** As a ground for extending the time period for holding an inspection shall be deemed the need for making expert examinations, investigations and tests, for translation into Russian of the documents presented by the inspected person in a foreign language and other necessary measures without which it is impossible to assess the conformity of the activities exercised by the inspected person to the requirements of the anti-monopoly legislation. With this, a procedure for extending the time period for holding an inspection shall be established by the federal anti-monopoly body.

**11.** An anti-monopoly agency shall be entitled within the framework of an inspection to inspect the activities of structural subdivisions of the inspected person, including branches and representative offices thereof.

**12.** The person to be inspected shall be notified of holding a planned inspection at least three working days before its start by way of forwarding thereto a copy of the order of the head of the anti-monopoly body to hold the inspection by registered mail with delivery confirmation or in some other way which is available.

**13.** The person to be inspected shall be notified about holding an extraordinary inspection at least twenty four hours before its start in any way available.

**14.** It is not permitted to notify in advance the person to be inspected of the start of an extraordinary inspection, if satisfaction of the requirements of [Articles 11](#) and [16](#) of this Federal Law is to be inspected.

#### **Article 25.2.** The Admittance of an Anti-Monopoly Agency's Officials to the Territory or to Premises for Holding an Inspection

**1.** The officials of an anti-monopoly agency engaged in an inspection shall be admitted to the territory or premises of the inspected person upon producing by these officials their official identification cards and the order of the head of the anti-monopoly agency to inspect this person. The access of the officials engaged in an inspection to the habitation of the inspected person shall be forbidden.

**2.** If the access of the anti-monopoly body's officials engaged in an inspection to the territory or to the premises of the inspected person is barred, these officials shall draw up a report in the procedure established by the federal anti-monopoly body. If the inspected person refuses to sign the said report, an appropriate entry shall be made therein.

**3.** The form of the report shall be endorsed by the federal anti-monopoly body.

#### **Article 25.3.** The Visual Examination

**1.** The anti-monopoly agency's officials engaged in an inspection shall be entitled, for the purpose of clarifying the circumstances which are important for making the inspection complete, to examine visually areas, premises (except for the inspected person's habitation), documents and articles of the inspected person.

**2.** The inspected persons, a representative thereof, as well as other persons attracted by the anti-monopoly body to participation in the inspection, shall be entitled to participate in a visual examination. A visual examination shall be effected in the presence of at least two attesting witnesses. Any natural persons which are not interested in the outcome of the case may be summoned as attesting witnesses. It shall not be allowed for anti-monopoly agencies' officials to act as attesting witnesses. Where special knowledge is required for making a visual inspection, specialists and/or experts may be attracted to it on the initiative of the anti-monopoly agency.

3. If necessary, when making a visual examination, photographing, filming and video taping shall be carried out and copies of documents shall be made, as well as copies of electronic media.

4. A record shall be drawn up on the basis of the results of a visual inspection. The form of the record shall be endorsed by the federal anti-monopoly body.

#### **Article 25.4.** Obtaining on Demand Documents and Information When Holding an Inspection

1. An anti-monopoly agency's officials engaged in an inspection shall be entitled to obtain on demand from the person being inspected the documents and information which are required for holding the inspection. When holding a desk audit, a reasoned demand to present documents and information shall be sent to the person being inspected or a representative thereof by mail with delivery confirmation or shall be handed in to such person or to a representative thereof against their receipt. When holding a visiting inspection, a reasoned demand to present documents and information shall be handed in to the person to be inspected or to a representative thereof against their receipt. The form of the demand to present documents and information shall be endorsed by the federal anti-monopoly body.

2. The demanded documents shall be presented in the form of copies attested in the procedure established by the [legislation](#) of the Russian Federation. Where necessary, the anti-monopoly agency's officials engaged in an inspection shall be entitled to get familiar with the documents' originals.

3. The documents and information which were obtained on demand in the course of an inspection shall be presented within three working days as of the date when the appropriate demand is delivered. If the inspected person cannot present the demanded documents and information within three working days, such person within the day following the date of receiving the demand to present the documents and information shall notify in writing the anti-monopoly agency's officials engaged in the inspection that it is impossible to present the documents and information in due time citing the reasons for failing to do it in due time and the period within which the inspected person can present the demanded documents and information. Within two working days as of the date when such notice is received, the anti-monopoly agency's official on the basis of this notification shall adopt in the procedure established by the federal anti-monopoly body a reasoned decision on fixing a new time period for presentation of the documents and information or shall take a reasoned decision to deny extension of this time period citing the reasons for the refusal. A copy of the adopted decision attested and certified in the established procedure shall be forwarded to the inspected person in any available way.

4. Failure of the person being inspected to present in due time the data and information demanded in the procedure established by this Federal Law or presentation by such person of wittingly unreliable data and information shall be punishable under the legislation of the Russian Federation.

#### **Article 25.5.** General Requirements for the Record Drawn Up While Making Actions Aimed at the Exercise of Anti-Monopoly Control

1. Where it is provided for by this Federal Law, records shall be drawn up while making actions aimed at the exercise of anti-monopoly control (hereinafter referred to as actions). These records shall be drawn up in Russian.

2. The following shall be cited in the record:

1) the content of actions;

- 2) the time and place for taking actions;
  - 3) the starting time and end time for taking actions;
  - 4) the position and full name of the person who has drawn up the record;
  - 5) the full name of each person that participates in taking actions or attends their taking and, where necessary, such person's address and citizenship, as well as information, if he/she has command of the Russian language;
  - 6) the content of actions and the order of taking them;
  - 7) the essential facts and circumstances detected in making actions.
- 3.** A record shall be read by all the persons who have participated in taking actions or attended them. The said persons shall be entitled to make observations which shall be entered in the record.
- 4.** A record shall be signed by the anti-monopoly official who has drawn it up, as well as by all persons who have participated in taking actions or attended them. A copy of the record shall be delivered or forwarded by registered mail with delivery confirmation to the inspected person.
- 5.** Photographs and negative images, films, videotapes and other materials made while making actions shall be attached to the record.

#### **Article 25.6.** The Legalisation of an Inspection's Results

1. A report shall be drawn up on the basis of the results of an inspection in two copies, one of them to be delivered or sent by registered mail with delivery confirmation to the inspected person or a representative thereof.
2. The form of the report shall be endorsed by the federal anti-monopoly body.
3. The results of an inspection constituting a **state, commercial**, official or other secret protected by law shall be legalised subject to the requirements provided for by the legislation of the Russian Federation.

#### **Article 25.7.** An Admonition as to the Impermissibility of Breaching the Anti-Monopoly Legislation

1. For the purpose preventing breaches of the **anti-monopoly legislation** an anti-monopoly agency shall forward to an official of an economic agent an admonition in writing as to the impermissibility of making actions that can lead to breaches of the anti-monopoly legislation (hereinafter referred to as an admonition).
2. As a ground for forwarding an admonition shall be deemed a public statement of an economic agent's official about its planned behavior in a commodity market, if such behavior can lead to breaching the anti-monopoly legislation and, with this, there is no ground for initiation and trying of a case on breaching the anti-monopoly legislation.
3. The decision on forwarding an admonition shall be rendered by the head of an anti-monopoly agency at latest in ten days as from the date when the anti-monopoly agency learnt about a public statement of an economic agent's official about planned behavior in a commodity market.
4. An admonition must contain the following:
  - 1) conclusions as to the presence of grounds for forwarding the admonition;
  - 2) the rules of the anti-monopoly legislation that can be violated by an economic agent.
5. A procedure for forwarding an admonition and its form shall be endorsed by the federal anti-monopoly agency.



**Article 26.** Duty of the Anti-Monopoly Body to Keep Commercial, Official and Other Secrets Protected by Law

1. The information constituting commercial, official and other secrets protected by law and obtained by the anti-monopoly body while exercising its authority shall not be subject to disclosure, except for the instances provided for by the federal laws.

2. Employees of the anti-monopoly body shall be held liable under civil, administrative and criminal laws for disclosing information constituting commercial, official or other secrets protected by law.

3. The damage caused to a natural person or legal entity as a result of disclosure of by the anti-monopoly body or by officials thereof of the information constituting commercial, official or other secrets protected by law shall be subject to repair from the budget of the Russian Federation.

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

**Article 26.1.** Transactions and Other Actions Which Are Subject to the State Control

According to the rules of this chapter, as subject to the state control shall be deemed transactions and other actions in respect of the assets of Russian organisations, as well as the plant and/or intangible assets located in the territory of the Russian Federation, or in respect of voting stocks (shares), rights with regard to Russian profit-making and non-profit organisations supplying commodities into the territory of the Russian Federation for the amount of over one milliard roubles within the year preceding the date of making a transaction or other action which is subject to the state control.

**Article 27.** Establishment and Re-Organisation of a Profit-Making Company by Preliminary Approbation of the Anti-Monopoly Body

1. The following actions shall be taken by a preliminary approbation of the anti-monopoly body:

1) merger of profit-making organisations (except for financial organisations), if the total value of their assets (assets of their groups of persons) according to the accounting balance sheets as of the last reporting date preceding the date of merger of such profit-making organisations for it (hereinafter also referred to as the last balance sheet; in the event of filing a notice with the anti-monopoly body, as the last balance sheet shall be deemed the accounting balance sheet as of the last reporting date preceding the date of submitting the notice) exceeds seven billion roubles, or if the total proceeds of such organisations (their groups of persons) from the sale of commodities within the calendar year preceding the year of merger exceeds ten billion roubles, or if one of such organisations is included into the register of economic subjects;

2) affiliation of one or several profit-making organisations (except for financial organisations) by another profit-making organisation (except for a financial organisation), if the total value of their assets (assets of their groups of persons) according to the last balance sheets exceeds seven billion roubles or the total proceeds of such organisations (their groups of persons) from the sale of commodities within the calendar year preceding the year of affiliation exceeds ten billion roubles or if one of such organisations is included into the register;

3) merger of financial organisations or affiliation of one or several financial organisations by another financial organisation, if the **total value of their assets** according to the last balance sheets exceeds the amount established by the Government of the Russian Federation (in case of credit organisations' merger or affiliation, such amount shall be established by the

Government of the Russian Federation by approbation of the Central Bank of the Russian Federation);

4) establishment of a profit-making organisation, if its authorised capital is paid by stocks (shares) and (or) by the property (except for monetary resources) of another profit-making organisation (except for a financial organisation) or the profit-making organisation being established acquires stocks (shares) and/or property of another profit-making organisation (except for a financial organisation) on the basis of the transfer deed or the division balance sheet and acquires in respect of these stocks (shares) and (or) property) the rights provided for by [Article 28](#) of this Federal Law and, with this, the total value of assets according to the last balance sheet of founders of the organisation being established (of their groups of persons) and the persons (of their groups of persons), whose stocks (shares) and (or) property (except for monetary funds) are contributed to the authorised capital of the profit-making organisation being established, exceeds seven billion roubles, or if the total proceeds of founders of the organisation being established (of their groups of persons) and of the persons (their groups of persons), whose stocks (shares) and (or) property are contributed to the authorised capital, from selling commodities within the last calendar year exceeds ten billion roubles, or if the organisation, whose stocks (shares) and (or) property (except for monetary resources) are contributed to the authorised capital, is included into the register;

5) establishment of a profit-making organisation, if its authorised capital is paid by the stocks (shares) and (or) assets (except for monetary funds) of a financial organisation and/or the profit-making organisation being established acquires such stocks (shares) and (or) assets of the financial organisation on the basis of a transfer deed or the division balance sheet and acquires with regard to such stocks (shares) and/or assets the rights provided for by [Article 29](#) of this Federal Law and the value of assets according to the last balance sheet of the financial organisation whose stocks (shares) and (or) assets are contributed to the authorised capital, exceeds the amount established by the Government of the Russian Federation (when contributing to the authorized capital the stocks (shares) and (or) assets (except for monetary funds) of a credit organisation, such amount shall be established by the Government of the Russian Federation by approbation of the Central Bank of the Russian Federation);

6) affiliation of a financial organisation with a profit-making organisation (except for a financial organisation), if the value of assets of the financial organisation according to the last balance sheet exceeds the amount fixed by the Government of the Russian Federation;

7) affiliation of a profit-making organisation (except for a financial organisation) with a financial organisation, if the value of assets of the financial organisation according to the last balance sheet exceeds the amount fixed by the Government of the Russian Federation (when affiliating with a credit organisation, such amount shall be fixed by the Government of the Russian Federation by approbation of the Central Bank of the Russian Federation).

**2.** The demand for obtaining a preliminary consent of an anti-monopoly agency to making the actions provided for by Part 1 of this Article shall not apply if the actions specified in Part 1 of this Article are made by persons pertaining to the same group of persons for the grounds provided for by [Item 1 of Part 1 of Article 9](#) of this Federal Law or if the transactions cited in Part 1 of this article are made subject to the conditions provided for by [Article 31](#) of this Federal Law or if their making is provided for by acts of the President of the Russian Federation or acts of the Government of the Russian Federation.;

*See [Administrative Rules of Procedure for the Federal Anti-Monopoly Service for Exercising](#)*

*the State Function of Coordinating the Setting-Up and Re-Organisation of Profit-Making Organisations Where It Is Established by the Anti-Monopoly Legislation of the Russian Federation approved by Order of the Federal Anti-Monopoly Service No. 293 of September 20, 2007*

**Article 28.** Transactions with Stocks (Shares) and Property of Profit-Making Organisations in Respect of Profit-Making Organisations with the Preliminary Consent of the Anti-Monopoly Body

1. If the total value of assets according to the last balance sheets of the person acquiring stocks (shares), rights and (or) property and of the group of persons thereof or of the person being an economic concentration entity and of the group of persons thereof exceeds seven billion roubles or if their total proceeds from the sale of commodities within the last calendar year exceed ten billion dollars and, with this, the total value of assets according to the last balance sheet of the person being the economic concentration entity and of the group of persons thereof exceeds two hundred and fifty million roubles, or if one of the said persons is included into the register, the following transactions with stocks (shares), rights and (or) property shall be made with a preliminary consent of an anti-monopoly agency:

1) acquisition by a person (a group of persons) of voting stocks of a joint-stock company registered on the territory of the Russian Federation, if such person (group of persons) acquires the right to dispose of over twenty five of the said stocks, provided that prior to this acquisition such person (such group of persons) had not disposed of voting stocks of this joint-stock company or had disposed of at most twenty five per cent of voting stocks of the joint-stock company. The said demand shall not extend to founders of a joint-stock company when it is being established;

2) acquisition by a person (group of persons) of shares in the authorised capital of a limited liability company registered on the territory of the Russian Federation, if such person (the group of persons) acquires the right of disposing of over one third of the shares in the authorised capital of the limited liability company, provided that prior to this acquisition this person (group of persons) had not disposed of shares in the authorised capital of the company or had disposed of less than one third of shares in the authorised capital of the company. The said demand shall not extend to founders of a limited liability company when it is being established;

3) acquisition of shares in the authorised capital of a limited liability company registered on the territory of the Russian Federation by a person (a group of persons) disposing of at least one third of shares and of at most fifty per cent of shares in the authorised capital of this company, if such person (such group of persons) acquires the right to dispose of over fifty per cent of the said shares;

4) acquisition of voting stocks of a joint-stock company registered on the territory of the Russian Federation by the person (group of persons) disposing of at least twenty five per cent and of at most fifty per cent of voting stocks of the joint-stock company, if this person (the group of persons) acquires the right to dispose of more than fifty per cent of such voting stocks;

5) acquisition of shares in the authorised capital of a limited liability company registered on the territory of the Russian Federation by the person (the group of persons) disposing of at least fifty per cent and of at most of two thirds of shares in the authorised capital of this company, if such person (such group of persons) acquires the right to dispose of over two thirds of the said shares;

6) acquisition of voting stocks of a joint-stock company registered on the territory of the Russian Federation by the person (group of persons) disposing of at least fifty per cent and of at most seventy five per cent of voting stocks of the joint-stock company, if this person (group of

persons) acquires the right of disposing of over seventy five per cent of such voting stocks;

7) acquisition for ownership, use or possession by an economic agent (a group of persons) of basic production facilities located on the territory of the Russian Federation (except for land plots and buildings, structures, constructions, premises and parts of premises and buildings in progress of non-industrial purpose and (or) intangible assets of another economic unit (except for a financial organisation), if the balance sheet value of the property constituting the object of the transaction or of interrelated transactions exceeds twenty per cent of the balance sheet value of the basic production facilities and intangible assets of the economic agent alienating or transferring the property;

8) acquisition by a person (group of persons) as a result of one or several transactions (in particular on the basis of a contract of property trust management, contract of joint activities or contract of agency) of the rights entitling to determine the terms of exercising by an economic unit registered on the territory of the Russian Federation (except for a financial organisation) business activities or to exercise the functions of its executive body.

9) acquisition by a person (a group of persons) of more than fifty per cent of the voting stocks (shares) of a legal entity established outside the territory of the Russian Federation or of other rights enabling to determine the conditions of exercising business activities by such legal entity or to exercise the functions of the executive body thereof.

**2.** The demand for obtaining the preliminary consent of an anti-monopoly agency for making the transactions provided for by **Part 1** of this Article shall not apply if the transactions specified in Part 1 of this Article are made by the persons pertaining to the same group of persons for the reasons provided for by **Item 1 of Part 1 of Article 9** of this Federal Law or if the transactions cited in Part 1 of this article are made subject to the conditions provided for by **Article 31** of this Federal Law, or if their making is provided for by acts of the President of the Russian Federation or by acts of the Government of the Russian Federation, or if transactions are made in respect of stocks (shares) of a financial organisation.

*See **Administrative Regulations of the Federal Anti-Monopoly Service On Performing the State Function of Approval of Acquisition of Shares (Stakes) in the Authorized Capital of Commercial Organisations, Receipt of Fixed Production Assets or Intangible Assets Into Ownership or Use, Acquisition of Rights Allowing to Establish the Terms of Business Activity Conducted by Economic Entity In Instances Envisaged Under the Legislation of the Russian Federation approved by Order of the Federal Anti-Monopoly Service No. 294 of September 20, 2007***

**3.** When estimating the total value of assets of the person acquiring stocks (shares), rights and/or property and of the group of persons thereof, as well as of the person which is the economic concentration entity and of the group of persons thereof, in compliance with **Part 1** of this article shall not be taken into account the assets of the person selling (alienating) the stocks (shares) or rights in respect of the person which is the economic concentration entity (the selling person) and of the group of persons thereof, if as a result of a transaction the selling person and the group of persons thereof ceases to be entitled to determine the terms of exercising business activities by the person which is the economic concentration entity.

**Article 29.** Transactions with Stocks (Shares), Assets of Financial Organisations and Rights in Respect Financial Organisations Made with the Preliminary Consent of the Anti-Monopoly Body

**1.** If the value of assets according to the last balance sheet of a financial organisation exceeds the value established by the Government of the Russian Federation (when making transactions with stocks (shares), assets of a credit organisation or rights in respect of a credit organisation, such value shall be established by the Government of the Russian Federation by

approbation of the Central Bank of the Russian Federation), the following transactions with stocks (shares), assets of a financial organisation or rights in respect of a financial organisation shall be made with the preliminary consent of the anti-monopoly body:

1) acquisition by a person (group of persons) of voting stocks of a joint-stock company, if such person (such group of persons) acquires the right to dispose of over twenty five per cent of the said stocks, provided that before this acquisition such person (group of persons) had not disposed of voting stocks of this joint-stock company or had disposed of at most twenty five per cent of voting stocks of this joint-stock company. This demand shall not extend to founders of a financial organisation when it is being established;

2) acquisition by a person (group of persons) of shares in the authorised capital of a limited liability company, if such person (group of persons) acquires the right of disposing of over one third of shares in the authorised capital of this company, provided that prior to this acquisition such person (group of persons) had not disposed of shares of this company or had disposed of less than one third of shares in the authorised capital of this company. This demand shall not extend to founders of a financial organisation when it is being established;

3) acquisition of shares in the authorised capital of a limited liability company by the person (group of persons) disposing of at least one third of shares and of at most fifty per cent of shares in the authorised capital of this company, if such person (group of persons) acquires the right to dispose of over fifty per cent of the said shares;

4) acquisition of voting stocks of a joint-stock company by the person (group of persons) disposing of at least twenty five per cent and of at most fifty per cent of voting stocks of the joint-stock company, if this person (group of persons) acquires the right of disposing of over fifty per cent of such voting stocks;

5) acquisition of shares in the authorised capital of a limited liability company by the person (group of persons) disposing of at least fifty per cent and of at most two thirds of shares in the authorised capital of this company, if such person (group of persons) acquires the right to dispose of over two thirds of the said shares;

6) acquisition of voting stocks of a joint-stock company by the person (group of persons) disposing of at least fifty per cent and of at most seventy five per cent of voting stocks of the joint-stock company, if this person (group of persons) acquires the right to dispose of over seventy five per cent of such voting stocks;

7) acquisition by a person (group of persons) as a result of one or several transactions the assets of a financial organisation (except for monetary funds) whose amount exceeds the rate established by the Government of the Russian Federation;

8) acquisition by a person (group of persons) as a result of one transaction or several transactions (in particular on the basis of a contract of property trust management, a contract of joint activities or contract of agency) of the rights entitling to determine the terms of exercising business activities by a financial organisation or to exercise the functions of its executive body.

2. The demand for obtaining the preliminary consent of an anti-monopoly agency to making transactions provided for by [Part 1](#) of this Article, shall not apply if the transactions specified in [Part 1](#) of this Article are made by persons pertaining to the same group of persons for the reasons provided for by [Item 1 of Part 1 of Article 9](#) of this Federal Law, or if the transactions cited in [Part 1](#) of this article are made subject to the conditions provided for by [Article 31](#) of this Federal Law, or if their making is stipulated by acts of the President of the Russian Federation or by acts of the Government of the Russian Federation.



## **Article 30.** Transactions or Other Actions Which the Anti-Monopoly Body Must Be Notified

### **1.** The anti-monopoly body must be notified:

1) by a profit-making organisation of its establishment as a result of a merger of profit-making organisations (except for mergers of financial organisations), if the total value of assets according to the last balance sheets or the total proceeds from the sale of commodities within the calendar year preceding the year when the merger takes place, of the profit-making organisations whose activities are terminated as a result of the merger exceed four hundred million roubles - at the latest in forty five days as of the date of the merger;

2) by a profit-making organisation of affiliation thereto of one or several profit-making organisation (except for financial organisations), if the total value of assets of the said organisations according to their last balance sheets or the total proceeds thereof from the sale of commodities within the calendar year preceding the year when the affiliation takes place exceed four hundred million roubles - at the latest in forty five days as of the date of the affiliation;

3) by a financial organisation of its establishment as a result of a merger of financial organisations, if the total value of assets according to the last balance sheets of the financial organisations whose activities are terminated as a result of merger does not exceed the rate established by the Government of the Russian Federation (when a credit organisation is established as a result of a merger, such rate shall be established by the Government of the Russian Federation by approbation of the Central Bank of the Russian Federation - at the latest in forty five days as of the date of the merger;

4) by a financial organisation of affiliation thereto of another financial organisation, if the value of assets according to the last balance sheet of the financial organisation established as result of affiliation of one or several financial organisations, if the total value of assets according to the last balance sheets of the said organisations does not exceed the rate established by the Government of the Russian Federation (when a credit organisation is established as a result of affiliation, such rate shall be fixed by the Government of the Russian Federation by approbation of the Central Bank of the Russian Federation) - at the latest in forty five days as of the date of the affiliation;

5) by the persons acquiring stocks (shares), rights and (or) other property (except for stocks (shares), rights and (or) assets of financial organisations) of making the transactions or making the other actions specified by [Article 28](#) of this Federal Law, if the total value of assets according to the last balance sheet or the total proceeds from the sale of commodities of the person acquiring stocks (shares), the rights and/or property and of the group of persons thereof and of the person whose stocks (shares) and/or property and/or the rights in respect of which are acquired and of the group of persons thereof for the calendar year preceding the year when such transactions or other actions are made exceeds four hundred million roubles and, with this, the total value of assets according to the last balance sheet of the person (group of persons), whose stocks (shares) and (or) property is acquired and/or in respect of which the rights are acquired, and of the group thereof exceeds sixty million roubles - at the latest in forty five days as of the date of making such transactions or other actions;

5.1) by a profit-making organisation (except for a financial organisation) about affiliation with it of a financial organisation, if the value of assets of the financial organisation according to the last balance sheet thereof exceeds the amount fixed by the Government of the Russian Federation;

6) by the persons acquiring stocks (shares), rights and/or assets of a financial organisation of making the transactions and other actions cited in [Article 29](#) of this Federal Law, if the value of its assets according to the last balance sheet exceeds the value fixed by the Government of the Russian Federation (for making transactions with stocks (shares) and/or assets of a credit institution or rights in respect of a credit institution such value shall be fixed by the Government of the Russian Federation by approbation of the Central Bank of the Russian Federation - at the latest in forty five days as of the date when such transactions or actions are made.

**2.** The demand for notifying the anti-monopoly body provided for by [Part 1](#) of this Article shall not apply in the event of making transactions or taking other actions with the preliminary consent of the anti-monopoly body.

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

**1.** The transactions or other actions specified by [Articles 27-29](#) of this Federal Law shall be made without the preliminary consent of the anti-monopoly body but with subsequent notification of their making in the procedure provided for by [Article 32](#) of this Federal Law, provided that the following conditions are met in the aggregate:

1) the transactions or other actions specified by [Articles 27-29](#) of this Federal Law are made by the persons pertaining to the same group of persons;

2) the list of persons pertaining to the same group, with the reasons for such persons' pertinence to this group stated therein was submitted by any person pertaining to this group (by the applicant) to the federal anti-monopoly body in the approved [form](#) at the latest one month before making the transactions or taking other actions;

3) the list of the persons pertaining to the same group was the same at the time of making transactions or taking other actions as compared to the list of such persons submitted to the federal anti-monopoly body.

**2.** The federal anti-monopoly body within fourteen days of the date of receiving the list of the persons pertaining to the same group with the reasons for such persons' pertinence to this group stated therein shall send to the applicant one of the following notifications:

1) of receiving such list and placing it on the official Internet website of the federal anti-monopoly body, if such list has been submitted in the form endorsed by the federal anti-monopoly body;

2) of failing to comply with the form of submitting such list and of failing to meet the conditions specified by [Part 1](#) of this Article.

**3.** The anti-monopoly body must be notified of the transactions and other actions made subject to the conditions provided for by this Article by the person which was interested in making the transactions or taking other actions specified by [Articles 28](#) and [29](#) of this Federal Law or by the person which was established as result of making the transactions or taking other actions specified by [Article 27](#) of this Federal Law - at the latest in forty five days as of the date of making such transactions or other actions.

**4.** The federal anti-monopoly body shall endorse the [form](#) of submitting the list of persons pertaining to the same group of persons with the reasons for such persons' pertinence to this group stated therein.

**5.** In case of establishing the fact of unreliability of presented data on the persons pertaining to the same group of persons, such data inserted on the official Internet site of the federal anti-monopoly body shall be removed by the federal anti-monopoly body from the said site.

*The provisions of Article 32 of this Federal Law (in the wording of Federal Law No. 169-FZ of July 1, 2011) shall not be applicable until July 1, 2012 in respect of the documents and information used within the framework of the state services provided by executive governmental bodies of subjects of the Russian Federation or territorial state non-budget funds, and of municipal services and in respect of the documents and information held by governmental bodies of subjects of the Russian Federation, local self-government bodies, territorial state non-budget funds or the organisations under the jurisdiction of governmental bodies or local self-government bodies participating in the provision of state or municipal services*

**Article 32.** Persons Submitting to the Anti-Monopoly Body Applications for, and Notifications of, Making Transactions or Taking Other Actions Subject to the State Control, as Well as Documents and Data

1. For the purpose of obtaining the preliminary consent of an anti-monopoly agency in the cases specified by Articles 27 - 29 of this Federal Law or for the purpose of notifying an anti-monopoly agency in the cases specified by Articles 30 and 31 of this Federal Law, the following persons shall address the anti-monopoly agency as applicants:

1) the persons making the actions provided for by Items 1 - 3, 6 and 7 of Part 1 of Articles 27 of this Federal Law;

2) the persons or one of the persons which render the decision of establishing a profit-making organisation where it is provided for by Items 4 and 5 of Part 1 of Article 27 of this Federal Law;

3) the persons acquiring stocks (shares), property and assets of economic agents, rights in respect of economic agents as a result of making the transactions provided for by Articles 28 and 29 of this Federal Law;

4) the persons which are charged under Articles 30 and 31 of this Federal Law with the duty to notify the anti-monopoly agency of making transactions and other actions.

2. The persons cited in Items 1-3 of Part 1 of this Article shall file applications with an anti-monopoly agency for giving consent to making transactions and other actions.

3. The persons with are charged by Articles 30 and 31 of this Federal Law with notifying the anti-monopoly body of making transactions and taking other actions shall submit to the anti-monopoly body a notification of making such transactions or taking other actions.

4. An application for, or notification of, making transactions and taking other actions may be submitted to the anti-monopoly body by a representative of the applicant.

4.1. A state duty shall be paid for adoption of the decision on making transactions and other actions which are subject to the state control at the rate and in the procedure which are established by the legislation of the Russian Federation on taxes and fees.

5. The following shall be submitted to an anti-monopoly agency concurrently with an application for, or notification of, making transactions and taking other actions which are subject to state control:

1) copies of the constituent documents of the applicant, if a legal entity, attested and certified by a notary public or the full name of the applicant, if a natural person, and data of the document certifying his/her identity (series and (or) number of this document, date and place of its issuance, body that has issued the document) as of the date of submitting the application or notification;

2) copies of constituent documents of the person which is the economic concentration

entity attested by a notary, as of the date of presenting the cited application or notification or an application in writing that the applicant does not have such documents;

3) documents and/or data defining the subject and content of transactions or other actions which are subject to the state control;

4) data on the types of activities exercised by the applicant within the two years preceding the date of submitting the cited application or notification, or within the time period of exercising its activity, if it is less than two years, as well as copies of the documents proving the right to exercise certain types of activities, if under the **legislation** of the Russian Federation special permits are required for their exercise;

5) data on denominations of the types of products and on the volume of products made and sold by the applicant within the two years preceding the date of submitting the cited application or notification, or within the time period of exercising activities, if it is less than two years, indicating codes of the products' range;

6) data available to the applicant on the principal types of activities of the persons specified by **Articles 27 - 30** of this Federal Law, on denominations of the types of products, on the volume of products made and sold by such persons within the two years preceding the date of submitting the application or notification or within the time period of exercising the activity, if it is less than two years, indicating codes of the products' range, as well as copies of the documents proving the right to exercise these kinds of activities, if under the legislation of the Russian Federation a special permit is required, or an application in writing that these data and documents are not available to the applicant;

7) the applicant's accounting balance sheet as of the last accounting date preceding the date of submitting the cited application or, when presenting the cited notification, as of the last accounting date preceding the date of making a transaction or other action;

8) data on the total balance sheet value of the applicant's assets and of the group of persons thereof, as of the last reporting date preceding the date when the cited application is presented or, when presenting the cited notification, as of the last accounting date preceding the date of making a transaction or other action;

9) data on the total balance sheet value of assets of the person which is an economic concentration entity and of the group of persons thereof, as of the last reporting date preceding the date when the cited application is presented or, when presenting the cited notification, as of the last accounting date preceding the date of making a transaction or other action, or the application in writing that such data are not available to the applicant;

10) the applicant's financial and economic, as well as other, accounting documents submitted to the Central Bank of the Russian Federation and to the federal executive power bodies engaged in regulation of the market of financial services, as of the last reporting date preceding the date when the cited application is presented or, when presenting the cited notification, as of the last accounting date preceding the date of making a transaction or other action, if the applicant is a financial organisation;

11) financial-and-economic and other accounting documents of the person, which is an economic concentration entity, to be submitted to the Central Bank of the Russian Federation and to the federal executive power bodies engaged in regulation in the market of financial services, if (stocks) shares, property and/or assets of a financial organisation and/or rights in respect of it are acquired, as of the last reporting date preceding the date when the cited application is presented or, when presenting the cited notification, as of the last accounting date preceding the date of making a transaction or other action, or the application in writing that such data are not available to the applicant;

12) list of the profit-making organisations where the applicant disposes of over five per cent of its stocks (shares) for any reason, as of the date of submitting the cited application or notification, or an application in writing that the applicant does not dispose of stocks (shares) of

profit-making organisations;

13) list of profit making organisations where the person which is an economic concentration entity disposes for any reason of over five per cent of the applicant's stocks (shares), as of the date of submitting the cited application or notification, or an application in writing that the applicant does not dispose of stocks (shares) of profit-making organisations, or an application in writing that such data are not available to the applicant;

14) list of persons that dispose for any reason of over five per cent of the applicants' stocks (shares) as of the date of presenting the cited application or notification;

15) list of person that dispose for any reason of over five per cent of stocks (shares) of the person that is an economic concentration entity, as of the date of submitting the cited application or notification, or an application in writing that such data are not available to the applicant;

16) list of the persons pertaining to the same group as the applicant, according to the form endorsed by the federal anti-monopoly agency, citing the features according to which they pertain to this group, as of the date of submitting the application, or, when presenting the cited notification, as of the date of making a transaction or other action. This list of the persons which are in the same group with the applicant shall comprise the persons which are under the applicant's control, the persons controlling the applicant, the persons pertaining to the same group with the applicant and exercising activities in the same commodity markets where the applicant exercises activities thereof, the persons participating in merger or affiliation and/or the person which is an economic concentration entity, as well as the persons which are under control thereof. The list of the persons which are in the same group with the applicant shall not comprise natural persons, if they are not individual businessmen and/or are not in the same group with an economic agent according to the features cited in [Items 1 - 3, 5, 6 and 9 of Part 1 of Article 9 of this Federal Law](#);

17) list of persons which are in the same group of persons with the other persons cited in [Articles 27 - 30](#) of this Federal Law according to the form endorsed by the federal anti-monopoly agency, citing the features according to which they pertain to this group, as of the date of submitting the application, or, when presenting the cited notification, as of the date of making a transaction or other action, or an application in writing that such data are not available to the applicant. The list of persons which are in the same group with the other persons, cited in [Articles 27-30](#) of this Federal Law, shall comprise the persons participating in merger or affiliation and/or the person which is an economic concentration entity, the persons which are under control of the person which is the economic concentration entity, the persons pertaining to the same group of persons as the person which is an economic concentration entity and exercising activities in the commodity markets where the applicant and the person which is an economic concentration entity exercise their activities, as well as the person controlled by them. The list of the persons which are in the same group with the other persons cited in [Articles 27-30](#) of this Federal Law shall not comprise natural persons, if they are not individual businessmen and/or are not in the same group with an economic agent according to the features cited in [Items 1-3, 5, 6 and 9 of Part 1 of Article 9 of this Federal Law](#);

18) data on the persons in whose interests over five per cent of the applicant's stocks (shares) are possessed by nominal holders thereof, in particular on such persons established in the state where a preferential tax treatment is provided and/or whose legislation does not provide for disclosing and supplying information about a legal entity (offshore zones);

19) list of licences of the person which is an economic concentration entity for exercising the kinds of activities provided for by [Article 6](#) of Federal Law No. 57-FZ of April 29, 2008 on the Procedure for Making Foreign Investments in Companies Which Are of Strategic Importance for Ensuring the Country's Defence and State Security, or an application in writing that these data are not available to the applicant;



20) document proving payment of the state duty for adoption of the decision on making transactions and other actions which are subject to the state control.

**5.1.** If the required documents and data cited in **Part 5** of this article, except for the documents and information mentioned in **Parts 5.2-5.4** of the present article, are not submitted in full, the application shall be deemed not submitted and the anti-monopoly body shall notify the applicant of it within a ten-day term. With this, the time period for custody by the anti-monopoly body of the submitted documents within which the applicant is entitled to obtain them on demand shall be fourteen days as of the date when the appropriate notice is received by the applicant.

**5.2.** Unless the copies of documents confirming the right to pursue types of activity (if special permits are required according to the **legislation** of the Russian Federation for the pursuance thereof) mentioned in **Item 4 of Part 5** of the present article have been submitted by the applicant, then on an inter-departmental inquiry of the anti-monopoly body empowered bodies shall provide information on the existence of such permits.

**5.3. Abrogated.**

**5.4.** Unless the documents mentioned in **Items 10 and 11 of Part 5** of the present article have been submitted by the applicant, then on an inter-departmental inquiry of the anti-monopoly body the Central Bank of the Russian Federation and the federal executive governmental bodies acting as regulators on the financial services market shall provide the financial and economic as well as other statements (the information contained therein) of the applicant or of the person whose shares (stakes), property and/or assets and/or in respect of which rights are being acquired.

**6.** An application for giving consent to the merger of profit-making organisations, affiliation of one or several profit-making organisations by a profit-making organisation, merger of non-profit organisations, affiliation with a non-profit organisation of one or several non-profit organisation, establishment of a non profit organisation or a notification of such establishment shall be signed by an applicant and by other persons participating in such merger, affiliation or establishment, while a notification of such merger or affiliation shall be only signed by an applicant. An applicant shall file with an anti-monopoly agency concurrently with these application or notification the documents and data on other persons participating in such merger, affiliation or establishment which are cited in **Part 5** of this article.

**7.** The federal anti-monopoly body shall endorse the **form** of submitting the data provided for by **Part 5** of this Article.

**8.** Where a transaction or other action require the preliminary consent of an anti-monopoly agency and its subsequent notification for several reasons provided for by **Articles 27 - 31** of this Federal Law, such transaction or other action shall be subject to coordination within the framework of a single application or a single subsequent notification.

### **Article 33.** Rendering by the Anti-Monopoly Body a Decision on the Basis of Consideration of the Application and Issuance by the Anti-Monopoly Body of an Order to the Person Which Has Submitted the Notification

**1.** The anti-monopoly body shall be obliged within thirty days as of the date of receiving the application provided for by **Article 32** of this Federal Law to consider this application and notify the applicant in writing of the decision rendered with indicating the reasons for its adoption.

**2.** On the basis of the results of considering an application for giving consent to making a

transaction or taking other actions subject to the state registration the anti-monopoly body shall render the following decision:

1) on allowing the application, if the transaction or other action declared in the application does not lead to limitation of competition;

2) on extending the time period for considering the application because of the necessity of its additional consideration, as well as of obtaining additional information for rendering the decision on the basis of the results of considering the application provided for by [Items 1, 3, 4 and 5](#) of this Part, if it is established that the transaction or other action declared in the application may lead to restriction of competition, in particular as a result of the emergence or strengthening of the dominant position of a person (a group of persons);

3) on extending the time period for consideration of an application for giving consent to a merger of profit-making organisations and/or non-profit organisations, affiliation of one or several profit-making organisations and/or non-profit organisations by a profit-making organisation or establishment of a profit-making organisation in the instances specified by [Article 27](#) of this Federal Law, or for making the transaction provided for by [Articles 28 and 29](#) of this Federal Law in connection with defining the conditions after whose meeting by the applicant and (or) by other persons participating in such merger, affiliation or establishment the anti-monopoly body shall decide to allow the application and in connection with defining the time period for meeting such conditions which may not exceed nine months. Such conditions shall form an integral part of the decision on extending the time period for considering such application;

3.1) on the extension of the time limit for considering the application if the transaction or a different action requested in the application is to be approved in advance in accordance with [Federal Law No. 57-FZ of April 29, 2008 on the Procedure for Making Foreign Investments in Economic Companies of Strategic Importance to the Country's Defence and State Security](#) (hereinafter referred to as the Federal Law on the Procedure for Making Foreign Investments in Economic Companies of Strategic Importance to the Country's Defense and State Security) before the day of adopting the decision on such a transaction, such a different action in accordance with the said [Federal Law](#);

4) on satisfying an application for giving consent to make the transaction or take another action specified by [Articles 28 and 29](#) of this Federal Law and on concurrently issuing to the applicant and/or to the persons forming the group of persons thereof and/or to an economic agent thereof whose stocks (shares), property or assets, or the rights in respect of such agent are acquired, and/or to the person being established, the order provided for by [Item 2 of Part 1 of Article 23](#) of this Federal Law to take actions aimed at securing competition in the event of making by the cited persons the transactions or taking by them other actions declared in the application;

5) on the refusal to allow the application, if the transaction or other action declared in the application will lead or could lead to restriction of competition (in particular as a result of emergence or strengthening of the applicant's dominant position, as well as of the dominant position of the person which will be established as a result of the transaction or other action declared in the application) and if the anti-monopoly body finds, when considering the submitted documents, that the information contained in them and important for decision-making is unreliable, or if the applicant filing the application has not presented the data available thereto which are requested by the anti-monopoly agency whose absence makes impossible the adoption of the decision on competition restriction or on the absence of competition restriction in

respect of the application filed;

6) on the refusal to satisfy the application, if the decision has been adopted on the refusal to approve in advance the transaction or a different action requested in the application in accordance with the **Federal Law** on the Procedure for Making Foreign Investments in Economic Companies of Strategic Importance to the Country's Defense and State Security.

3. The time period mentioned in **Part 1** of this Article may be prolonged by at most two months by the decision provided for by **Item 2 of Part 2** of this Article. Should such decision be rendered, the anti-monopoly body shall enter to its official Internet website data on the transaction or other action declared in the application for giving consent to make the transaction or other action. The persons concerned shall be entitled to submit to the anti-monopoly body data on the impact of such transactions or other action on the state of competition.

4. The decision to prolong the time period for considering the application provided for by **Item 3 of Part 2** of this Article shall be rendered by the anti-monopoly body, if the merger of profit-making organisations affiliation by a profit-making organisation of one or several profit-making organisations or establishment of a profit-making organisation lead or can lead to limitation of competition, in particular as a result of emergence or strengthening of the dominant position of a person (a group of persons) that will be created as a result of making such actions.

5. For the purpose of ensuring competition the conditions provided for by **Item 3 of Part 2** of this Article may contain, among other things, the following:

1) procedure for access to the production facilities, infrastructure or information which are at the disposal of the applicant, as well as of the other persons participating in the merger of profit-making organisations, affiliation of one or several profit-making organisations by a profit-making organisation or establishment of a profit-making organisation;

2) procedure for granting to other persons the rights to the objects of industrial property protection which are at the disposal of the applicant, as well as of the other persons participating the merger of profit-making organisations, affiliation of one or several profit-making organisations by a profit-making organisation or establishment of a profit-making organisation;

3) demands towards the applicant, as well as the other persons participating a merger of profit-making organisations, affiliation of one or several profit-making organisations by a profit-making organisation or establishment of a profit-making organisation for the transfer of property to another person not pertaining to the same group of persons as the said applicant and (or) the other persons, for the assignment of the rights of claim and (or) liabilities of the said applicant and (or) other persons to another person not pertaining to the same group of persons as the said applicant and (or) other persons;

4) requirements towards the composition of the group of persons where the applicant and the other persons participating the merger of profit-making organisations, affiliation of one or several profit-making organisations by a profit-making organisation or establishment of a profit-making organisation pertain to.

6. After meeting the conditions specified by **Item 3 of Part 2** of this Article the applicant shall submit to the anti-monopoly body the documents, that prove their meeting. The anti-monopoly body within thirty days as of the time of receiving the said documents, in the event of proving on the basis of them meeting of the conditions at the established time, shall render a decision on satisfying the application for giving consent to the merger of profit-making organisations, affiliation of one or several profit-making organisations by a profitmaking organisation, or establishment of a profit-making organisation, or making the transaction provided for by **Articles 28 and 29** of this Federal Law, or otherwise, a decision to reject the application.

7. The decision to allow an application for giving consent to making a transaction or taking another action and to issue concurrently an order provided for by [Item 4 of Part 2](#) of this Article shall be rendered by an anti-monopoly agency if the transaction or other action cited in the application will lead or could lead to a limitation of competition.

8. The operation of the anti-monopoly body's decision to give consent to making transactions or taking other actions shall be terminated if such transactions or other actions are not made within a year as of the date of rendering the said decision.

9. The persons that under [Article 30](#) of this Federal Law are charged with notifying the anti-monopoly body of making transactions or taking other actions subject to state control shall be entitled, prior to making such transactions or taking other actions, to submit, instead of the notification, the application for giving consent to their making to the anti-monopoly body which is obliged to consider this application in the procedure provided for by this Article.

10. If the transactions or other actions provided for by [Articles 30](#) and [31](#) of this Federal Law have led or can lead to limitation of competition, in particular as a result of emergence or strengthening of the dominant position of an economic unit, the applicant that has filed the appropriate notification with the anti-monopoly body or the group of persons to which the applicant pertains shall be obliged to take actions aimed at ensuring competition on the basis of the order of the anti-monopoly body issued in compliance with [Item 2 of Part 1 of Article 23](#) of this Federal Law.

11. An anti-monopoly agency on the basis of an application of the person, which an order is issued to in the instances provided for by this article, as well as on its own initiative, may review its content or a procedure for its execution in connection with the occurrence of essential circumstances after its issuance that exclude the possibility and/or expediency of the order's execution in full or in part. As essential circumstances shall be deemed alteration of the productive or geographic boundaries of a commodity market, of the composition of sellers or buyers or loss of the dominant position by an economic agent. An application for reviewing an order must be considered by an anti-monopoly agency with a month since the date when it comes in. A procedure for reviewing an order shall be established by an anti-monopoly agency. The alteration of an order may not deteriorate the position of the person which such order has been issued to.

**Article 34.** Effects of Violating the Procedure for Obtaining the Preliminary Consent of the Anti-Monopoly Body to Carry Out Transactions or Take Other Actions, as Well as the Procedure for Submitting to the Anti-Monopoly Body Notifications of Making the Transactions or Other Actions Subject to State Control

1. A profit-making organisation established without the preliminary consent of the anti-monopoly body, in particular as a result of merger or affiliation of profit-making organisations, in the instances specified by [Article 27](#) of this Federal Law, shall be liquidated or reorganised in the form of detachment or division in the judicial procedure on the basis of a claim of the anti-monopoly body, if its establishment has led or may lead to the restriction of competition, in particular as a result of the emergence or strengthening of the dominant position.

2. The transactions specified by [Articles 28](#) and [29](#) of this Federal Law and made without obtaining the preliminary consent of the anti-monopoly body shall be declared invalid in the judicial procedure on the basis of a claim made by the anti-monopoly body, if such transactions have led or may lead to the restriction of competition, in particular as a result of emergence or strengthening of the dominant position.

3. The profit-making organisation which is charged with notifying the anti-monopoly body

of carrying out the actions mentioned in **Items 1-4 of Part 1 of Article 30** of this Federal Law and which has failed to follow the procedure for notifying the anti-monopoly body of making such actions shall be liquidated or re-organised in the form of detachment or division in the judicial procedure on the basis of a claim made by the anti-monopoly body, if such actions have led or may lead to restriction of competition, in particular as a result of the emergence or strengthening of the dominant position.

**4.** The transactions or other actions specified by **Item 5 of Part 1 of Article 30** and in **Article 31** of this Federal Law and made in defiance of the procedure for notifying the anti-monopoly body shall be declared invalid in the judicial procedure on the basis of a claim of the anti-monopoly body, if such transactions or other actions have led or may lead to the restriction of competition, in particular as a result of the emergence or strengthening of the dominant position.

**5.** A failure to follow an order of the anti-monopoly body, which is issued in the procedure provided for by **Item 4 of Part 2 of Article 33** of this Federal Law shall serve as a ground for declaring the appropriate transactions invalid in the judicial procedure on the basis of a claim of the anti-monopoly body.

**6.** A failure to follow an order of the anti-monopoly body issued in the procedure provided for by **Article 33** of this Federal Law or other failure to meet the requirements of **Articles 27-32** of this Federal Law, along with the effects stated by this Article shall entail liability in the instances established by the **legislation** of the Russian Federation on administrative offences.

#### **Article 35.** State Control over the Agreements of Economic Units Restricting Competition

**1.** Economic units intending to reach an agreement which may be declared admissible in compliance with this Federal Law shall be entitled to file an application with the anti-monopoly body for verifying the compliance of the draft agreement in writing with the requirements of the anti-monopoly legislation.

**2.** Economic units intending to reach an agreement, along with the application, shall submit to the anti-monopoly body the documents and data in compliance with the **list** endorsed by the federal anti-monopoly body.

**3.** The anti-monopoly body within thirty days as of the date of receiving all the documents and data required for considering the application shall render a decision on the compliance or non-compliance of a draft agreement in writing with the requirements of anti-monopoly legislation.

**3.1.** In the event of failure to present in full the documents and data which are required for consideration of an application, the application shall be deemed not filed, and an anti-monopoly agency within a ten-day term as from the date of receiving the cited application shall notify the applicant of it. With this, the time period for keeping by an anti-monopoly agency of presented documents within which the applicant has the right to obtain them on demand shall be fourteen days from the date when the applicant receives the notification.

**4.** The following shall be deemed the grounds for rendering a decision on non-compliance of a draft agreement in writing with the requirements of the anti-monopoly legislation:

1) presence of the conditions provided for by **Parts 1 - 4 of Article 11** of this Federal Law where there are no grounds for declaring a draft agreement admissible in compliance with **Article 12** or **13** of this Federal Law;

2) unreliability of the data contained in the documents, as well as of other data which are presented by an economic unit and which are important for rendering a decision;



3) **abrogated**;

**5.** Where necessary, the time period for considering the application mentioned in **Part 1** of this Article may be extended by the anti-monopoly body but at most by twenty days. The anti-monopoly body shall notify the applicant in writing of the extension of the time period for considering the application stating the reasons for the extension thereof.

**6.** The operation of a decision of the anti-monopoly body on the compliance of a draft agreement in writing with the requirements of anti-monopoly legislation shall be terminated if such agreement is not reached within a year as of the date of rendering the said decision.

**7.** The anti-monopoly body shall be entitled to issue to the parties to an agreement, along with a decision on the compliance of the draft agreement in writing with the requirements of the anti-monopoly legislation, an order aimed at ensuring competition.

**8.** The anti-monopoly body shall be entitled to reverse a decision on the compliance of a draft agreement in writing with the requirements of the anti-monopoly legislation, if:

1) after rendering the decision it was established that while considering the application of an economic unit intending to reach the agreement unreliable data were presented;

2) economic units intending to reach an agreement do not follow the order of the anti-monopoly body provided for by **Part 7** of this Article.

3) if the conditions serving as a ground for declaring a draft agreement admissible in compliance with **Article 12** or **13** of this Federal law have changed.

**9.** Economic agents that have made an agreement on the basis of the decision of an anti-monopoly agency on the compliance of the draft agreement in writing with the requirements of the anti-monopoly legislation are bound to terminate such agreement within a month since the time when any of them receives a reasoned decision adopted by the anti-monopoly agency in compliance with **Item 3 of Part 8** of this article on the reversal of the decision on compliance of the draft agreement in writing with the requirements of the anti-monopoly legislation. The decision of the anti-monopoly agency on the reversal of the decision on compliance of a draft agreement in writing with the requirements of the anti-monopoly agency may be adopted, if the share of parties to the agreement in a commodity market has changed, as well as if the parties to the agreement fail to meet the conditions thereof.

**10. Abrogated.**

**11. Abrogated.**

**12. Abrogated.**

## **Chapter 8. Liability for Violations of Anti-Monopoly Legislation**

### **Article 36. Obligation to Follow Decisions and Orders of Anti-Monopoly Body**

Profit-making organisations and non-profit organisations (officials thereof), federal executive bodies (officials thereof), executive bodies of the constituent entities of the Russian Federation (officials thereof), local self-government bodies (officials thereof), other agencies and organisations exercising the functions of the said bodies (officials thereof), as well as the state off-budget funds (officials thereof) and natural persons, including individual businessmen, shall be obliged to follow decisions and orders of the anti-monopoly body within the time periods established by such decisions and orders.

### **Article 37. Liability for Breaching Anti-Monopoly Legislation**

**1.** For breaching anti-monopoly legislation officials of the federal executive bodies, executive bodies of the constituent entities of the Russian Federation, local self-government bodies, officials of other agencies and organisations exercising the functions of the said bodies,

as well as officials of the state off-budget funds, profitmaking and non-profit organisations and officials thereof, natural persons, including individual businessmen, shall be liable under the legislation of the Russian Federation.

**2.** Calling the persons specified by **Part 1** of this Article to account shall not exempt them from the duty to follow decisions and orders of the anti-monopoly body, to submit to the anti-monopoly body applications and notifications for consideration or to take other actions provided for by the anti-monopoly legislation.

**3.** The persons whose rights and interests have been infringed as a result of violation of the anti-monopoly legislation are entitled to make claims in the established procedure with a court of law or an arbitration court, in particular claims for restoration of violated rights, repair of damage, including lost profit, compensation for harm caused to property.

#### **Article 38. Compulsory Division or Detachment of Profit-Making Organisations, as Well as of Non-Profit Organisations Engaged in Profitable Activities**

**1.** In the event of the systematic exercise of monopolistic activities by a profit-making organisation occupying a dominant position, as well as by a non-profit organisation engaged in profitable activities, a court on the basis of a claim of the anti-monopoly body (in respect of a credit organisation on the basis of a claim of the anti-monopoly body by approbation of the Central Bank of the Russian Federation) shall be entitled to make a decision on the compulsory division of such organisations or a decision on detaching one or several organisations from them. Organisations established as a result of compulsory division may not pertain to the same group of persons.

**2.** A court decision on compulsory division of a profit-making organisation or on detachment from a profit-making organisation of one or several profit-making organisations shall be rendered for the purpose of developing competition, if the totality of the following conditions are met:

- 1) it is possible to separate structural subdivision of a profit-making organisation;
- 2) there is no technologically determined interrelation between structural subdivisions of a profit-making organisation (in particular, thirty and less per cent of the total output of a structural subdivision, of the works carried out and services rendered by it are consumed by other structural subdivisions of this profit-making organisation);
- 3) it is possible for the legal entities established as a result of re-organisation to exercise independent activities in the appropriate commodity market.

**3.** A court decision on the compulsory division of a profit-making organisation or on detachment from a profit-making organisation of one or several profit-making organisations, as well as on such division or detachment with respect to a non-profit organisation engaged in profitable activities, shall be subject to execution by the proprietor or by the body authorised by him, taking into account the requirements provided for by the said decision and at the time fixed by the said decision which may not be less than six months.

### **Chapter 9. Trying Cases on Violations of Anti-Monopoly Legislation**

#### **Article 39. Grounds for Bringing an Action against Violations of the Anti-Monopoly Legislation, Place of Such Legal Proceedings, as Well as the Effects of Considering a Case on Breaching the Anti-Monopoly Legislation**

**1.** The anti-monopoly body within the scope of authority thereof shall bring an action and shall consider cases in respect of breaching anti-monopoly legislation, shall render decisions on the basis of the results thereof and shall issue orders.

*See Administrative Rules of the Federal Anti-Monopoly Service for Carrying out the State Function of Commencing Proceedings in Cases of Breach of the Anti-Monopoly Legislation of the Russian Federation and Considering Such Cases approved by Order of the Federal Anti-Monopoly Service No. 447 of December 25, 2007*

**2.** The following shall be deemed a ground for initiating proceedings and considering by the anti-monopoly body a case in respect of breaching the anti-monopoly legislation:

1) receiving from the state bodies or local self-government bodies materials showing signs of breaching anti-monopoly legislation (hereinafter referred to as materials);

2) application of a legal entity or natural person citing the signs of breaching the anti-monopoly legislation (hereinafter referred to as application);

3) the anti-monopoly body's detecting the signs of breaching anti-monopoly legislation;

4) a report of a mass medium showing the presence of the signs of breaching anti-monopoly legislation;

5) the result of an inspection during which breaches of the anti-monopoly legislation by profit-making organisations, non-profit organisations, federal executive power bodies, state power bodies of constituent entities of the Russian Federation, local authorities, other bodies or organisations exercising the functions of the cited bodies, by state off-budget funds were detected.

**3.** A case on a violation of the anti-monopoly legislation may be considered by the anti-monopoly body at the place of perpetrating the violation or at the location or place of residence of the person in respect of which the application or materials have been filed. The federal anti-monopoly body shall be entitled to consider the said case regardless of the place where a breach is made, or regardless of the location or place of residence of the person in respect of which the application or materials are filed.

**4.** The rules for delivering by an anti-monopoly body applications, materials and cases on violations of anti-monopoly legislation to another anti-monopoly body for consideration shall be established by the federal anti-monopoly body.

**5.** If in the course of considering a case on breaching anti-monopoly legislation an anti-monopoly body detects circumstances showing the presence of an administrative offence, the anti-monopoly body shall initiate legal proceedings in respect of the administrative offence in the procedure established by the **legislation** of the Russian Federation on administrative offences.

### **Article 39.1.** An Admonition to Terminate Actions (Omission to Act) Containing the Signs of a Breach of the Anti-Monopoly Legislation

**1.** For the purpose of suppressing actions (omission to act) that lead or can lead to prevention, restriction or elimination of competition, an anti-monopoly agency shall issue to the economic agent holding the dominant position an admonition in writing to stop making actions (omission to act) that contain the signs of breaching the anti-monopoly legislation, to remove the reasons and conditions which are conducive to such violation and to take measures aimed at eliminating the effects of such violation (hereinafter referred to as admonition).

**2.** An admonition shall be issued to the economic agent holding the dominant position in case of detecting the signs of breaching **Items 3 and 5 of Part 1 of Article 10** of this Federal Law. The adoption by an anti-monopoly agency of the decision on initiating a case on breaching **Items 3 and 5 of Part 1 of Article 10** of this Federal Law without issuance of an admonition and

before the end of the time period for its execution shall not be allowed.

**3.** An admonition shall be issued within the period while a case on breaching the anti-monopoly legislation is being considered by the commission for consideration of the case on breaching the anti-monopoly legislation, if when considering such case the signs of violation of **Items 3 and 5 of Part 1 of Article 10** of this Federal Law, which were not known at the time of initiation of such case, have been established.

**4.** An admonition shall contain the following:

- 1) conclusions as to the presence of grounds for its issuance;
- 2) rules of the anti-monopoly legislation that have been violated by actions (omission or act) of the person which the admonition is issued to;
- 3) list of actions aimed at termination of violation of the anti-monopoly legislation, removal of the reasons and conditions which are conducive to the origination of such violation, removal of the effects of such violation, as well as a reasonable term for making them.

**5.** An admonition is subject to consideration without fail by the person, which it is issued to, within the time period fixed in the admonition. The time period for executing an admonition shall be at least ten days. The cited time period may be extended by an anti-monopoly agency on the basis of a reasoned petition of the person, which an admonition is issued to, and where there are sufficient grounds to believe that the admonition cannot be executed within the cited time period.

**6.** An anti-monopoly agency must be notified of executing an admonition within three days as from the end date of the time period fixed for its execution.

**7.** If an admonition is executed, the case on violation of the anti-monopoly legislation shall not be initiated and the person that has executed the admonition shall not be subject to administrative liability for breaching the anti-monopoly legislation in connection with its removal.

**8.** In the event of failure to execute an admonition in due time and where there are signs of breaching the anti-monopoly legislation, an anti-monopoly agency shall render the decision on initiating a case on breaching the anti-monopoly legislation.

**9.** A procedure for issuance of an admonition and the form thereof shall be endorsed by the federal anti-monopoly agency.

#### **Article 40.** The Commission for Considering Cases on Breaches of Anti-Monopoly Legislation

**1.** To consider every case on breaching anti-monopoly legislation, the anti-monopoly body shall establish in the procedure provided for by this Federal Law a commission for considering cases on breaching the anti-monopoly legislation (hereinafter also referred to as the commission). The commission shall act on behalf of the anti-monopoly body. The composition of the commission and the chairman thereof shall be approved by the anti-monopoly body.

**2.** The commission shall consist of employees of the anti-monopoly body. The head of an anti-monopoly agency, the deputy thereof or the head of a structural unit of the federal anti-monopoly agency may be the chairman of the commission. The commission shall include at least three members. A member of the commission shall be replaced on the basis of a reasoned decision of the anti-monopoly body.

**3.** When considering a case on breaching the anti-monopoly legislation by credit organisations, representatives of the Central Bank of the Russian Federation shall be included into the composition of the commission, so that they constituted half of its members.

**4.** When considering a case on breaching the anti-monopoly legislation by financial organisations (except for credit organisations) which have the licences issued by the federal executive body in charge of the securities market, representatives of the said federal executive

body shall be included into the composition of the commission so that they constitute half of its members.

**5.** The number of members of the commission (including the chairman thereof) for considering cases on breaching anti-monopoly legislation specified by **Parts 3 and 4** of this Article must be even.

**6.** The commission shall be authorised to consider cases on breaching anti-monopoly legislation if no less than fifty per cent of the total number of the commission's members are attending its meeting but at least three members thereof.

**6.1.** Where there is no quorum for consideration of a case on breaching the anti-monopoly legislation, the commission members attending the meeting shall render the decision to postpone consideration of this case and to fix a new date for its consideration, this to be legalised by a ruling.

**7.** Issues arising in the course of considering a case on breaching the anti-monopoly legislation by the commission shall be settled by a majority vote of the commission's members. In the event of a tie vote, the commission's chairman shall have the casting vote. The commission's members shall not be entitled to abstain from voting. The commission's chairman shall be the last to vote.

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

**1.** The commission shall adopt admonitions, rulings, decisions and orders.

**2.** Upon terminating the consideration of a case on breaching the anti-monopoly legislation the commission at the meeting thereof shall adopt a decision. The commission's decision shall be legalised in the form of a document, shall be signed by the chairman and by all members of the commission attending its meeting. Any commission member who does not agree with the commission's decision shall be obliged to sign the act adopted by the commission and entitled to state in writing the dissenting opinion thereof that shall be attached to the case materials in a sealed envelope and shall not be pronounced. The commission's decision shall be made in one copy and attached to the case-file.

**3.** A decision on a case on breaching the anti-monopoly legislation shall contain the following:

1) conclusions as to the presence or absence of grounds for termination of the case's consideration;

2) conclusions as to the presence or absence of breaches of the anti-monopoly legislation in the actions (omission to act) of the respondent in the case;

3) conclusions as to the presence or absence of reasons for issuing an order and list of actions which are to be taken for inclusion thereof into the order;

4) conclusions as to the presence or absence of grounds for taking by the anti-monopoly body other measures aimed at suppressing and (or) removing effects of breaching the anti-monopoly legislation and at ensuring competition (including grounds for bringing an action with court, for delivering materials to law-enforcement bodies, for sending to the state bodies or local self-government bodies recommendations as to taking actions aimed at ensuring competition);

5) conclusions in respect of cases on breaching the anti-monopoly legislation made on the basis of the facts substantiated in the course of analysis by the anti-monopoly body of the state of competition, except for the cases for whose consideration such analysis is not obligatory.

**4.** The commission on the basis of its decision shall issue an order. An order shall be



legalised in the form of a separate document for each person which is to take the actions determined by the commission's decision at the time established by the order and shall be signed by the chairman and the members of the commission attending the commission's meeting.

**5.** In the instances indicated in this Chapter, the commission's chairman or the commission shall issue a ruling. A ruling shall be legalised in the form of a separate document, shall be signed by the chairman and members of the commission and sent to the persons participating in the case, as well as to the other persons indicated in this Chapter.

**6. Forms** of the acts adopted by the commission shall be endorsed by the federal anti-monopoly body.

#### **Article 41.1.** Limitation Periods, as Regards Consideration of a Case on Breaching the Anti-Monopoly Legislation

A case on breaching the anti-monopoly legislation may not be initiated and an initiated case shall be terminated upon the expiry of three years as of the date when the anti-monopoly legislation is breached or, in the event of a continued breach of the anti-monopoly legislation, as of the end date of the breach or as of the date of its detection.

#### **Article 42.** Persons Participating in a Case on Breaching Anti-Monopoly Legislation

**1.** The following persons shall be deemed parties to a case on breaching anti-monopoly legislation:

1) **applicant** is the person who has filed an application, as well as the state body or local self-government body which have sent materials;

2) **respondent** in a case is the person in respect of which an application is filed or materials are sent or in whose actions (omission to act) the anti-monopoly body has detected signs violations of anti-monopoly legislation. The said persons shall be declared as respondents in a case on breaching anti-monopoly legislation as of the time of initiating proceedings;

3) **persons concerned** are the persons whose rights and legitimate interests are concerned in connection with considering a case on breaching anti-monopoly legislation.

**2.** When considering a case on breaching anti-monopoly legislation, the persons participating in the case shall be entitled to exercise their rights and discharge their duties independently or through a representative thereof.

**3.** If in the course of considering a case on breaching anti-monopoly legislation the commission finds that the signs of violations of anti-monopoly legislation are contained in the actions (omission to act) of a person other than the respondent in the case, the commission shall bring such person as the respondent in the case. If the commission has not detected the facts showing the presence of the signs of breaching anti-monopoly legislation in actions of one of the respondents in a case, the commission shall issue a ruling on the termination of such respondent's participation in considering the case. A copy of the ruling on the termination of participation of the respondent in the case in considering the case shall be promptly sent to the persons participating in the case.

**4.** The commission while considering a case on breaching the anti-monopoly legislation shall be entitled to attract experts, interpreters, as well as the persons who have available data on the circumstances being considered by the commission. Experts, interpreters, as well as the persons who have available data on the circumstances being considered by the commission shall not be deemed parties to the case. The commission shall issue a ruling in respect of attracting experts, interpreters, as well as the persons who have available data on the circumstances being considered by the commission, and shall send copies of such ruling to them within three days as of the time of issuing it.

**Article 43.** Rights and Duties of the Persons Participating in a Case on Breaching Anti-Monopoly Legislation

1. As of the time of initiating legal proceedings concerning a violation of anti-monopoly legislation, the persons participating in the case shall be entitled to familiarise themselves with the materials of the case, abstract them, present evidence and familiarise with the evidence, put questions to other participants in the case, submit applications, give explanations in written or oral forms to the commission, advance their arguments in respect of all matters arising in the course of the cases' consideration, to familiarise themselves with the applications of other parties to the case, and to protest against applications and arguments of other parties to the case.

2. The persons participating in a case are entitled in the course of its consideration to fix in writing, as well as with the help of audio recording facilities, the process of its consideration. If while considering a case the information constituting state secret which is protected under law is announced, the commission chairman is entitled to render the decision on imposing a ban on making by the persons participating in the case the audio recording of the process of the case's consideration.

3. It is allowed to make photos and video recording of a case's consideration, to make radio and TV broadcasting of a case's consideration by approbation of the commission's chairman.

4. The persons participating in a case are bound to use their rights with good faith while the case is being considered.

**Article 44.** Consideration of an Application and Materials, as Well as Initiation of a Case on Breaching the Anti-Monopoly Legislation

1. An application shall be filed in writing with an anti-monopoly agency and must contain the following data:

- 1) data on the applicant (full name and address of the place of residence, if a natural person, denomination and location, if a legal entity);
- 2) data on the person in respect of which the application is filed which are available to the applicant;
- 3) description of the violation of the anti-monopoly legislation;
- 4) essence of the claims made by the applicant;
- 5) list of attached documents.

2. An application shall have attached thereto the documents showing the signs of breaching the anti-monopoly legislation (hereinafter referred to as documents). Where it is impossible to present documents, shall be cited the reason why it is impossible to present them, as well as the supposed person or body which such documents are available to.

3. If in the application or materials there are no data provided for by [Parts 1 and 2](#) of this article, an anti-monopoly agency shall leave the application or materials unattended and the applicant shall be notified of it in writing within ten working days as from the date when they are received.

4. An anti-monopoly agency shall consider an application or materials within a month since the date when they are presented. Where there is no evidence, enabling the anti-monopoly agency to make a conclusion as to whether there are signs or there are no signs of breaching the anti-monopoly legislation, or they are insufficient, the anti-monopoly agency is entitled, for the purpose of collection or analysis of additional evidence, to extend the time period for consideration of the application or materials but at most by two months. The anti-monopoly agency shall notify the applicant in writing of extending the time period for consideration of the application or materials.

5. When considering an application or materials, an anti-monopoly agency:

1) shall establish if consideration of the application or materials are within the scope of authority thereof;

2) shall establish the signs of violation of the anti-monopoly legislation and shall determine the rules to be applied.

**6.** In the course of considering an application or materials an anti-monopoly agency is entitled to request profit-making organisations and non-profit organisations and their officials, federal executive power bodies and their officials, the state power bodies of constituent entities of the Russian Federation and their officials, local authorities and their officials, as well as state off-budget funds and their officials, natural persons, including individual businessmen, subject to the requirements of the legislation of the Russian Federation concerning state secrets, banking secrets, commercial secrets or other secrets protected under law, for the documents, explanations in writing and in oral form connected with the circumstances stated in the application or materials.

**7.** While considering an application and materials showing the presence of the signs of violation of **Article 10** of this Federal Law, an anti-monopoly agency shall establish if the economic agent in respect of which these application and materials are filed holds the dominant position, except when an anti-monopoly agency renders the decision to deny initiation of a case on violation of the anti-monopoly legislation on the grounds provided for by Part 9 of this article.

**8.** On the basis of the results of considering an application and materials an anti-monopoly agency shall render one of the following decisions:

1) on initiating a case on breaching the anti-monopoly legislation;

2) on the refusal to initiate a case on breaching the anti-monopoly legislation.

**9.** An anti-monopoly agency shall render the decision on the refusal to initiate a case in the following instances:

1) the matters cited in the application and materials are not within the scope of authority of the anti-monopoly agency;

2) there are no breaches of the anti-monopoly legislation;

3) a case has been earlier initiated in respect of the fact serving as a ground for filing an application;

4) in respect of the fact serving as a ground for filing an application and materials there is an effective decision of an anti-monopoly agency, except if there is the decision of an anti-monopoly agency on the refusal to initiate a case on breaching the anti-monopoly legislation in compliance with Item 2 of this part or the decision on termination of the case's consideration in compliance with **Item 2 of Part 1 of Article 48** of this Federal Law and an applicant presents evidence of breaching the anti-monopoly legislation which were not known to the anti-monopoly agency at the time when such decision was adopted;

5) the limitation period provided for by **Article 41.1** of this Federal Law in respect of the fact serving as a ground for filing an application and materials has expired;

6) the absence of the signs of breaching the anti-monopoly legislation in actions of the person in respect of which an application or materials are filed is established by an effective decision of a court of law or an arbitration court;

7) the signs of breaching the anti-monopoly legislation as a result of execution of the admonition issued in the procedure established by **Article 39.1** of this Federal Law have been removed.

**10.** The decision on the refusal to initiate a case on breaching the anti-monopoly legislation shall be forwarded by an anti-monopoly agency to an applicant at the time fixed by **Part 3** of this article citing the motives for adoption of this decision.

**11.** The adoption of a decision on the basis of the results of considering an application and materials may be postponed if a different case is being considered by an anti-monopoly agency, court of law, arbitration court or by law enforcement bodies, the conclusions in respect

of which will be of importance for the results of considering the application and materials before adoption and entry into force of an appropriate decision on the given case, the applicant to be notified by the anti-monopoly agency about it in writing.

**12.** In the event of adopting the decision on initiation of a case on breaching the anti-monopoly legislation, an anti-monopoly agency shall issue the order to initiate the case and to establish a commission. A copy of such order shall be forwarded to an applicant and respondent in the case within three days as from the date when such order is issued.

**13.** Within fifteen days as from the date of issuance of an order to initiate a case on breaching the anti-monopoly legislation and on establishing a commission, the commission chairman shall issue the ruling on taking over the case and shall forward a copy of the ruling to the persons participating in the case.

#### **Article 45.** Considering a Case on Breaching Anti-Monopoly Legislation

**1.** A case on breaching anti-monopoly legislation shall be considered by the commission within a time period of three months at the most as of the date of issuing a ruling on appointing the hearing of the case. In the instances connected with the necessity of obtaining additional information by the anti-monopoly body, as well as in the instances established by this Chapter, the said time period for consideration of the case may be extended by the commission, but at most by six months. The commission shall issue a ruling on extending the time period for considering the case and shall send copies of this ruling to the parties to the case.

**2.** A case on breaching the anti-monopoly legislation shall be considered at the commission's sitting. The parties to the case must be notified of the time and place of its consideration. In the event of the failure of the persons participating in the case and properly notified of the time and place of the case's consideration to appear at the commission's sitting, the commission shall be entitled to consider the case in the absence thereof. In the course of considering the case minutes shall be kept, to be signed by the commission's chairman. The commission shall be entitled to take down its sitting in shorthand or to effect a sound recording thereof; in so doing, a note shall be made in the minutes as to the use of technical facilities for recording the commission's sitting.

**3.** The chairman of the commission:

- 1) shall open the commission's sitting;
- 2) shall declare the commission's composition;
- 3) shall declare what case is to be considered, check the appearance at the commission's sitting of the persons participating in the case, verify the authority thereof, establish whether the persons who have failed to appear at the sitting have been properly notified and whether there are data on the reasons for their absence;
- 4) shall clarify whether it is possible to consider the case;
- 5) shall explain to the persons participating in the case their rights, determine the order of taking actions when considering the case;
- 6) shall preside over the commission's sitting, ensure conditions for a comprehensive and full examination of evidence and circumstances of the case, ensure consideration of applications and petitions of the parties to the case;
- 7) shall take measures aimed at ensuring the proper order during the commission's sitting.

**4.** The commission at its meeting:

- 1) shall hear the persons participating in the case;
- 2) shall hear and discuss petitions, render decisions in respect of them that must be shown in the sitting's minutes;
- 3) shall examine evidence;
- 4) shall hear opinions and explanations of the persons participating in the case in respect

of the evidence presented by the persons participating in the case;

5) shall hear and discuss the opinions of the experts attracted for issuing opinions;

6) shall hear the persons who have available data on the circumstances of the case in question;

7) on the basis of petitions of the persons participating in the case or on the initiative of the commission shall discuss the matters concerning the reasons for, and the necessity of, declaring a break in the commission's sitting, postponement and suspension of the case's consideration.

**5.** When considering a case on breaching the anti-monopoly legislation, the commission shall be entitled to request the persons participating in the case for documents, data and explanations in written or oral forms, as regards the issues arising in the course of the case's consideration, to attract other persons to participation in the case.

**6.** The chairman of the commission, after examining evidence in a case on breaching anti-monopoly legislation, stating the positions of the persons participating in the case and expert opinions; questioning the persons having available data on the circumstances being considered by the commission, shall announce that consideration of the case is terminated and shall ask the persons participating in the case and other persons to retire so that the can could render a decision.

#### **Article 46.** Break in the Commission's Sitting

**1.** The commission shall be entitled on the basis of the application of a person participating in a case on breaching anti-monopoly legislation, as well as on its own initiative, to declare a break in the commission's sitting for a time period of a maximum of seven days.

**2.** The commission shall continue considering a case on breaching anti-monopoly legislation after a break in its sitting from the point where it was interrupted. The evidence examined before a break in the commission's sitting shall not be repeatedly considered.

#### **Article 47.** Postponement and Suspension of Considering a Case on Breaching Anti-Monopoly Legislation

**1.** The commission shall be entitled to postpone consideration of a case on breaching anti-monopoly legislation:

1) on the basis of an application of a person participating in the case in connection with the impossibility of this person's appearance or a representative thereof at the commission's sitting for a sound reason provided by the appropriate documents;

2) in connection with the necessity of obtaining additional evidence;

3) for attracting to participation in the case of the persons who can contribute to consideration of the case, and other persons whose participation in the case, in the commission's opinion, is necessary;

4) if in the course of considering the case in the actions (omission to act) of the respondent in the case signs of a violation of the anti-monopoly legislation, other than those whose signs served a basis for initiating legal proceedings, were detected;

5) in other instances provided for by this Chapter.

**1.1.** The commission is bound to postpone consideration of a case on breaching the anti-monopoly legislation if a person that has earlier participated in the given case with a different status (the person having information about the facts of the case or the applicant) is joined as the respondent in the given case.

**2.** When postponing a case on breaching anti-monopoly legislation, the running of the time period for considering it shall not be interrupted. The consideration of a case at a new commission's sitting shall be resumed from the point where it was postponed.



**3.** The commission may suspend consideration of a case on breaching anti-monopoly legislation in the event and for a term of:

- 1) consideration by an anti-monopoly, court, preliminary investigation agencies of another case which is important for consideration of the case on breaching anti-monopoly legislation;
- 2) conducting an expert examination.

**4.** The running of the term of considering a case on breaching anti-monopoly legislation shall be interrupted in the event of suspending consideration of the case and shall continue from the moment of resuming its consideration. The consideration of the case shall be resumed from the point where it was suspended.

**5.** The commission shall issue a ruling on the postponement, suspension and resumption of considering a case on breaching anti-monopoly legislation, as well as on appointing an expert commission whose copy shall be directed to the persons participating in the case within three days as of the date of its issuance. A copy of the ruling on appointing an expert examination shall be likewise sent to an expert within three days as of the date of issuing such ruling.

#### **Article 47.1.** Integration or Detachment of Cases on Breaching the Anti-Monopoly Legislation

**1.** An anti-monopoly agency at the application of the person participating in a case or on its own initiative shall be entitled in the procedure established by the anti-monopoly agency for the purpose of complete, comprehensive and unbiased consideration of cases to integrate for trying within the same proceedings two and more cases on breaching the anti-monopoly legislation, as well as to separate one or several cases for their trying within separate proceedings.

**2.** A ruling shall be issued by an anti-monopoly agency on integration of cases for their trying within the same proceedings or on separation of a case for its trying within separate proceedings.

**3.** The composition of the commission for considering integrated or separated cases shall be defined by an order issued by an anti-monopoly agency.

#### **Article 48.** Termination of Considering a Case on Breaching Anti-Monopoly Legislation

**1.** The commission shall terminate consideration of a case on breaching anti-monopoly legislation in the event of the following:

- 1) voluntary elimination of a violation of anti-monopoly legislation and the effects thereof by the person that is guilty of such violation;
- 2) absence in the actions (omission to act) under the commission's consideration of violations of anti-monopoly legislation;
- 3) liquidation of the legal entity which is the only respondent in the case;
- 4) death of the natural person who is the only respondent in the case;
- 5) presence of an effective judicial act containing conclusions as to the presence or absence of a violation of anti-monopoly legislation in the actions (omission to act) under the commissions' consideration.

6) availability of an effective decision of an anti-monopoly agency about establishing the fact of breaching the anti-monopoly legislation in respect of the actions (omission to act) which are being considered by the commission;

7) expiry of the limitation period fixed by Article 41.1 of this Federal Law.

**2.** A decision to terminate the consideration of a case on breaching anti-monopoly legislation shall be rendered by the commission in compliance with the requirements

established by **Article 41** of this Where consideration of a case is terminated in compliance with **Items 1 and 6 of Part 1** of this Article, the operative part of the decision on termination of the case's consideration shall contain data on substantiating the fact of breach by the defendant or defendants of the anti-monopoly legislation. Federal Law.

**Article 49.** Adoption by the Commission of a Decision on the Case Concerning a Violation of Anti-Monopoly Legislation

**1.** The commission, when rendering a decision on the case on breaching the anti-monopoly legislation:

- 1) shall assess the evidence and arguments presented by the parties to the case;
- 2) shall assess the opinions and explanations of experts, as well as of the persons having available data on the circumstances under the commission's consideration;
- 3) shall determine the rules of anti-monopoly legislation and other laws of the Russian Federation violated as a result of taking the actions (of the omission to act) under the commission's consideration;
- 4) shall establish the rights and duties of the persons participating in the case;
- 5) shall solve the questions of issuing orders and of their contents, as well as of the necessity to take other actions aimed at eliminating and (or) preventing a violation of anti-monopoly legislation, including the question of sending materials to law enforcement bodies, of applying to court, of sending proposals and recommendations to the state bodies or local self-government bodies.

**2.** The resolute part of a decision on a case on breaching the anti-monopoly legislation is subject to pronouncement upon the end of the case's consideration, must be signed by all the commission members participating in the adoption of the decision and attached to the case-file. The decision must be made in full within ten working days as from the date when the resolute part of the decision is pronounced. A copy of such decision must be promptly forwarded or handed in to the persons participating in the case. The date of making the decision in full shall be regarded as the date of its adoption.

**Article 50.** Order in Respect of a Case on Breaching Anti-Monopoly Legislation

**1.** Subject to the results of considering a case on breaching anti-monopoly legislation and on the basis of a decision on the case the commission shall issue to the respondent an order in respect of the case.

**2.** An order in respect of a case on breaching anti-monopoly legislation shall be made concurrently with a decision on it. A copy of the order shall be promptly sent or handed in to the person who is ordered to take the actions specified by the decision.

**Article 51.** Execution of an Order in Respect of a Case on Breaching Anti-Monopoly Legislation. Effects of Failing to Execute an Order to Remit to the Federal Budget the Incomes Derived from Monopolistic Activities or Unfair Competition

**1.** An order in respect of a case on breaching anti-monopoly legislation is to be executed at the established time. The anti-monopoly body shall exercise control over execution of issued orders.

**2.** Failure to execute in due time an order in respect of a case on breaching anti-monopoly legislation shall entail administrative liability.

**3.** The person whose actions (omission to act) are declared monopolistic activity or unfair competition in the procedure provided for by this Federal Law and are impermissible under anti-monopoly legislation shall be obliged on the basis of an order of an anti-monopoly body to remit to the federal budget the incomes derived from such actions (omission to act). In the event of

failure to follow this order, the incomes derived from monopolistic activities or unfair competition is to be recovered to the benefit of the federal budget on the basis of a claim of the anti-monopoly body.

**4.** Failure to execute in due an order concerning a case on breaching anti-monopoly legislation shall be understood as execution of the Failure to execute the said order in due time shall be deemed a breach of the anti-monopoly legislation. order in part or evasion of its execution.

**5.** The time period for execution of an order in respect of the case on a breach of the anti-monopoly legislation may be extended by the commission by at most six months on the basis of a reasoned application of the respondent or respondents, if the reasons cited in the application are found as good. The application for extending the time period for execution of such order shall be forwarded to the anti-monopoly at latest twenty working days before the expiry of the time period for execution of the order.

**6.** The ruling on extension of the time period for execution of the order or on the refusal to extend it shall be signed by the commission's chairman and by members thereof, and within ten working days as of the time when the application is received shall be forwarded to the respondent or respondents in the case by registered mail with delivery confirmation or shall be handed in to their representative against receipt thereof.

**7.** Where the respondent or respondents in a case are brought to administrative responsibility for failure to execute the order in due time, the commission within five working days as of the date, when the decision on imposition of an administrative sanction issued, shall issue a ruling on fixing a new time period for execution of the previously issued order. Such ruling shall be signed by the commission's chairman and members thereof and shall be forwarded by registered mail with delivery confirmation or shall be handed in to the respondent, respondents or their representatives against receipt thereof.

**Article 51.1.** Explaining a Decision and/or an Order in Respect of a Case on Breaching the Anti-Monopoly Legislation. Correcting a Slip of Pen, Misprint or an Arithmetic Mistake

**1.** The commission that has adopted a decision and/or an order in respect of a case on breaching the anti-monopoly legislation is entitled on the basis of an application of a person participating in the case or on its own initiative to explain the decision and/or order without changing its content, as well as to correct the slips of pen, misprints and arithmetic mistakes made in the decision and/or order.

**2.** The commission shall issue a ruling in respect of explanation of a decision and/or order, or correction of a slip of pen, misprint and an arithmetic mistake.

**3.** A ruling in respect of explanation of a decision and/or order, or correction of a slip of pen, misprint and an arithmetic mistake shall be forwarded by the commission to the persons participating in the case within three working days as from the date when the ruling is made but at latest in fifteen working days as from the date when an application comes in.

**Article 51.2.** The Review of a Decision and/or an Order in a Case on Breaching the Anti-Monopoly Legislation in View of New or Newly Discovered Facts

**1.** The decision and/or the order issued in respect of a case on breaching the anti-monopoly legislation issued on the basis of such decision may be reviewed in view of new or newly discovered fact by the commission that has adopted such decision and/or has issued such order on the basis of an application of a person participating in the case, as well as if the commission finds the grounds for review of the decision and/or order provided for by this article.

**2.** As the grounds for reviewing the decision and/or the order issued on the basis of it in respect of a case on breaching the anti-monopoly legislation shall be deemed the following:

1) detecting the circumstances that were not known and could not be known at the time of pronouncing the resolute part of the decision on the case but are of major importance for solution of the case;

2) falsification of evidence, or wittingly false testimony of a person having information about the facts in the case under consideration, or wittingly false expert opinion, or wittingly false translation entailing the adoption of an unlawful or ill-founded decision and/or issuance of an order on the basis of it.

**3.** An application for reviewing the decision adopted by an anti-monopoly agency and/or the order issued on the basis of it in respect of the case on breaching the anti-monopoly legislation in view of new and/or newly discovered facts shall be filed with the anti-monopoly agency whose commission has adopted such decision and/or has issued such order by the persons participating in the case within three months as from the date when they learnt or could learn about the circumstances serving as a ground for review of the decision and/or order.

**4.** On the basis of a petition of the person that has filed an application the missed time period for filing the application may be restored by an anti-monopoly agency, provided that the petition is submitted within six months as from the date of establishing grounds for review of the decision and/or order and the anti-monopoly agency declares the reasons for missing the time period as sound.

**5.** The form and content of an application for review of the decision adopted by an anti-monopoly agency and/or the order issued on the basis of it in respect of a case on breaching the anti-monopoly legislation shall be determined by the federal anti-monopoly agency.

**6.** An anti-monopoly agency shall return to an applicant the application filed by him for review of the decision adopted by the anti-monopoly agency and/or of the order issued on the basis of it in respect of a case on breaching the anti-monopoly legislation in view of new or newly discovered facts within ten days as from the date of receiving such application, if it finds that:

1) the requirements for the application's form and content are not satisfied;

2) the application is filed upon the expiry of the fixed time period and there is no petition for its restoration or restoration of the missed time period for filing the application is denied.

**7.** An application for review of the decision adopted by an anti-monopoly agency and/or of the order issued on the basis of it in respect of a case on breaching the anti-monopoly legislation in view of new and/or newly discovered facts shall be considered by the commission that has adopted such decision and/or issued such order within a month since the date when the application comes to the anti-monopoly agency.

**8.** On the basis of the results of considering an application for review of the decision adopted by an anti-monopoly agency and/or of the order issued on the basis of it in respect of a case on breaching the anti-monopoly legislation in view of new and/or newly discovered facts the commission shall render one of the following decisions:

1) to allow the application and to review the decision and/or order;

2) to reject the application.

**9.** The commission shall forward to an applicant the decision on rejection of an application for review of the decision adopted by an anti-monopoly agency and/or of the order issued on the basis of it in respect of a case on breaching the anti-monopoly legislation within three days as from the time when it is adopted.

**10.** In the event of adoption of the decision to review the decision and/or the order issued on the basis of it in respect of a case on breaching the anti-monopoly legislation, the commission shall issue the ruling to review the decision and/or order. A copy of such ruling within three days as from the date when it is issued shall be forwarded to the persons participating in the case.

**11.** The decision and/or the order issued on the basis of it in respect of a case on

breaching the anti-monopoly legislation shall be reviewed by the commission that has adopted the decision to be reviewed and/or that has issued the order to be reviewed in the procedure established by this chapter.

**Article 52.** A Procedure for Complaining against Decisions and Orders of an Anti-Monopoly Agency

1. The decision and/or order of an anti-monopoly agency may be complained against with an arbitration court within three months as from the date when the decision is adopted or the order is issued. Cases on complaining against the decision and/or order of an anti-monopoly agency shall be within the scope of jurisdiction of an arbitration court.

2. In the event of taking over by an arbitration court of an application for complaining against an order, execution of the order of the anti-monopoly agency shall be suspended up to the date of entry into legal force of the arbitration court's decision.

## **Chapter 10. Final Provisions and Entry of this Federal Law into Effect**

**Article 53.** Final Provisions

1. As of the date of this Federal Law's **entry into force** the following shall be declared invalidated:

1) **Articles from 1 to 2, Paragraphs from 2 to 25 of Part 1 and Part 2 of Article 4, Sections from II to VII** of Law of the RSFSR No. 948-I of March 22 of 1991 on Competition and Restriction of Monopolistic Activity in Commodity Markets (Vedomosti Syezda Narodnykh Deputatov RSFSR i Verkhovnogo Soveta RSFSR, 1991, No. 16, Article 499);

2) Article 14 of Law of the Russian Federation No. 3119-I of June 24, 1992 on Making Amendments and Addenda to the Civil Code of the RSFSR, the Civil Procedure Code of the RSFSR, the Rules of Procedure of the Supreme Soviet of the RSFSR, laws of the RSFSR on the Jewish Autonomous Area, on the Elections of People's Deputies of the RSFSR, on Additional Powers of Local Soviets of People's Deputies under the Conditions of Transition to Market Relations, on a Peasant's Farm, on Land Reform, on Banks and Banking in the RSFSR, on the Central Bank of the RSFSR (the Bank of Russia), on Property in the RSFSR, on Enterprises and Business Activities, on the State Tax Service of the RSFSR, on Competition and Restriction of Monopolistic Activities in Commodity Markets, on Top-Priority Provision of the Agroindustrial Complex with Material and Technical Resources, on Local Self-Government in the RSFSR, on Privatisation of State and Municipal Enterprises in the RSFSR, on the Fundamentals of the Budget System and Budgetary Process in the RSFSR, on State Duty; the Laws of the Russian Federation on a Territorial and Regional Soviet of People's Deputies, as Well as a Territorial and Regional Administration, on Commodity Exchanges and Exchange Trade (Vedomosti Syezda Narodnykh Deputatov Rossiyskoy Federatsii i Verkhovnogo Soveta Rossiyskoy Federatsii, 1992, No. 34, Article 1966);

3) Items 1 to 4, Paragraphs 4 to 20 of Item 5, Items 6 to 26 and 30 to 34 of Article 1 of Federal Law No. 83-FZ of May 25, 1995 on Making Amendments and Addenda to the Law of the RSFSR on Competition and Restriction of Monopolistic Activity in Commodity Markets (Sobranie Zakonodatelstva Rossiyskoy Federatsii, 1995, No. 22, Article 1977);

4) **Item 1, Paragraphs from 2 to 7, from 9 to 13 of Item 2 and Item 3 of Article 1** of Federal Law No. 70-FZ of May 6, 1998 on Making Amendments and Addenda to the Law of the RSFSR on Competition and Restriction of Monopolistic Activity in Commodity Markets (Sobranie Zakonodatelstva Rossiyskoy Federatsii, 1998, No. 19, Article 2066);

5) **Federal Law** No. 117-FZ of June 23, 1999 on the Protection of Competition in the Financial Services Market (Sobranie Zakonodatelstva Rossiyskoy Federatsii, 1999, No. 26,



Article 3174);

6) **Federal Law** No. 3-FZ of January 2, 2000 on Making Amendments and Addenda to Article 18 of the Law of the RSFSR on Competition and Restriction of Monopolistic Activity in Commodity Markets (Sobranie Zakonodatelstva Rossiyskoy Federatsii, 2000, No. 2, Article 124);

7) **Paragraphs from 2 to 5** and from **38 to 42 of Article 3** of Federal Law No. 195-FZ of December 30, 2001 on Putting into Operation the Code of Administrative Offences of the Russian Federation (Sobranie Zakonodatelstva Rossiyskoy Federatsii, 2002, No. 1, Article 2);

8) **Item 2 of Article 2** of Federal Law No. 31-FZ of March 21, 2002 on Putting Legislative Acts into Accord with the Federal Law on the State Registration of Legal Entities (Sobranie Zakonodatelstva Rossiyskoy Federatsii, 2002, No. 12, Article 1093);

9) **Items 1 to 4, Paragraphs 2 to 18 of Item 5, Items 6 to 33 of Article 1** of Federal Law No. 122-FZ of October 9, 2002 on Making Amendments and Addenda to the Law of the RSFSR on Competition and Restriction of Monopolistic Activity in Commodity Markets (Sobranie Zakonodatelstva Rossiyskoy Federatsii, 2002, No. 41, Article 3969);

10) **Federal Law** No. 13-FZ of March 7, 2005 on Amending Articles 17 and 18 of the Law of the RSFSR on Competition and Restriction of Monopolistic Activities in Commodity Markets (Sobranie Zakonodatelstva Rossiyskoy Federatsii, 2005, No. 10, Article 761);

11) **Article 2** and **21** of Federal Law No. 19-FZ of February 2, 2006 on Amending Certain Legislative Acts of the Russian Federation and Declaring Invalidated Some Provisions of Legislative Acts of the Russian Federation in Connection with Adoption of the Federal Law on Placing Orders to Supply Goods, Carry Out Works and Render Services for Meeting State and Municipal Needs (Sobranie Zakonodatelstva Rossiyskoy Federatsii, 2006, No. 6, Article 636).

**2.** As of the date of **entry into force** of this Federal Law and until the bringing into accord with this Federal Law other federal laws and other normative legal acts of the Russian Federation regulating the relations connected with the protection of competition in the Russian Federation, prevention and suppression of monopolistic activities and unfair competition, the said laws and other normative legal acts shall apply insofar as they do not contravene this Federal Law.

**3.** Until the procedure envisaged by **Part 5 of Article 17.1** of the present Federal Law for holding tenders or auctions for a right to conclude the contracts specified in **Parts 1 and 3 of Article 17.1** of the present Federal Law is established tenders for a right to conclude such contracts shall be conducted in the procedure established by **Federal Law** No. 115-FZ of July 21, 2005 on Concession Agreements, and auctions for a right to conclude such contracts shall be conducted in the procedure established by **Federal Law** No. 178-FZ of December 21, 2001 on the Privatisation of State and Municipal Property.

**4.** Until July 1, 2015 it is permitted to conclude for a new term without tenders or auctions the lease contracts mentioned in **Parts 1 and 3 of Article 17.1** of the present Federal Law and concluded with small or medium businesses save the small and medium businesses specified in **Part 3 of Article 14** of Federal Law No. 209-FZ of July 24, 2007 on the Development of Small and Medium Businesses in the Russian Federation and the small and medium businesses engaged in the recovery and processing of mineral resources (except for the widespread mineral resources), provided the lack of the grounds -- as of the time of conclusion of such lease contract for a new term -- for its early rescission as envisaged by the civil legislation. In this case, the conclusion of the lease contracts envisaged by the present part is possible for a term not going beyond July 1, 2015.

**5.** Until January 1, 2011 information on the holding of tenders or auctions for the right to

conclude the contracts specified in **Parts 1 and 3 of Article 17** of the present Federal Law shall be placed on the official web-site of the Russian Federation, the official web-site of a subject of the Russian Federation, the official web-site of a municipal formation on the internet intended for the placement of information on public sales designated by the federal executive governmental body empowered by the Government of the Russian Federation, the paramount executive governmental body of the subject of the Russian Federation or the local self-government body respectively. In this case, announcements of tenders or auctions, amendments thereto and announcements of refusal to hold tenders or auctions shall also be published in the official printed edition chosen on a competitive basis of the federal executive governmental body empowered by the Government of the Russian Federation, the paramount executive governmental body of the subject of the Russian Federation or the local self-government body.

**6.** It is not allowed to extend the validity terms of contracts of rendering financial services and to make them for a new term without holding public tenders or public auctions cited in **Article 18** of this Federal Law.

**Article 54.** Entry into Effect of this Federal Law

This Federal Law shall enter into force upon the expiry of ninety days as of the date of its **official publication**.

President of the Russian Federation

V. Putin

The Kremlin, Moscow  
July 26, 2006  
No. 135-FZ