

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Working Party No. 3 on Co-operation and Enforcement**

**Methodologies for Conducting Market Studies - Note by the Russian Federation**

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*More documents related to this discussion can be found at [www.oecd.org/daf/competition/market-study-methodologies-for-competition-authorities.htm](http://www.oecd.org/daf/competition/market-study-methodologies-for-competition-authorities.htm)*

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## *Russian Federation*

1. Market research is carried out by the Federal Antimonopoly Service (the FAS Russia) in all cases of violations of the antimonopoly legislation, as well as in a number of other cases specified by law (including at the request of other authorities, the Government of the Russian Federation, the President of the Russian Federation). Market studies are conducted in accordance with the Procedure for Analysing the State of Competition in Commodity Markets approved by the Order of the FAS Russia No. 220 of 28 April 2010 (hereinafter - the Procedure). This document regulates a wide range of issues, including the collection of information, its analysis and applied methodology.

2. When analysing<sup>1</sup> markets, the following information can be used:

- Data from official statistics.
- Information received from tax, customs and other government agencies, the Central Bank of the Russian Federation, local government authorities.
- Information received from individuals and legal entities, including information submitted by customers, including as a result of their sample survey, as well as information provided by sellers of goods.
- Results of economic and commodity expertise, opinions of specialized organizations, as well as individual experts.
- Data from departmental and independent information centers and services.
- Data of associations of consumers and associations of producers.
- Media reports.
- Data of the FAS Russia's research and foreign competition authorities.
- Data of marketing, sociological studies, sample surveys and questioning of economic entities, citizens, public organizations.
- State standards, technical conditions and other standards.
- Claims of individuals and legal entities filed at the antimonopoly authority.
- Results of antitrust investigations conducted earlier by the antimonopoly authorities on the relevant market.
- Data from economic entities.
- Data from other sources, including one submitted by market participants.

3. When conducting a specific market research, the antimonopoly authority uses only the sources of information necessary for the analysis. The FAS Russia independently determines the range of sources it uses.

4. In case if the FAS Russia requires information from economic entities and authorities, FAS Russia sends official letters to them. Provision of information in such cases is mandatory, and administrative liability is imposed for failure to fulfill this obligation. The antimonopoly authority can request any kind of information.

5. The procedure establishes particularities for conducting market studies in a number of categories of cases dealt by the FAS Russia. In some cases, defining interchangeable goods with the application of appropriate methods is not necessary. The abridged procedure for analysing markets is established for cases of violation of:

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<sup>1</sup> In this text the term "market analysis" can mean the same as "market research".

- Article 10 of the Law on Protection of Competition (abuse of dominant position) by a natural monopoly entity in natural monopoly markets.
- Part 1 of Article 11 of the Law on Protection of Competition (cartels).
- Part 2 of Article 11 of the Law on Protection of Competition (prohibited "vertical" agreements).
- Part 5 Article 11 of the Law on Protection of Competition (coordination of economic activities of economic entities).
- Articles 14<sup>1</sup> – 14<sup>8</sup> of the Law on Protection of Competition (unfair competition).
- Article 15 of the Law on Protection of Competition (competition-restricting acts and actions / failure to act of government bodies).
- Article 16 of the Law on Protection of Competition (competition-restricting agreements / concerted actions of authorities).

6. Methods for market analysis are covered by the Procedure. In particular, when determining interchangeable goods, the "hypothetical monopolist test"; analysis of pricing and price dynamics, changes in the volume of demand when prices change; as well as calculating cross elasticity of demand can be used. The definition of geographic boundaries can be carried out based on the "hypothetical monopolist test"; method of establishing the actual sales areas (by location of customers), economic entities that sell on the commodity market in question; other methods that can identify sellers and determine the geographical location of sales areas.

7. The methodology of studies is not limited to the methods listed in the Procedure; it is possible to use other methods.

8. In a significant number of market studies, FAS Russia applies an integrity of methods and sources of information in order to get a full, objective and comprehensive review of the state of competition in the market and effective decision-making in cases of antitrust violations.

## 1. Case studies

### 1.1. Market study of linear container transportation

9. An example of complex application of open data, standards, information requests, surveys and research is the study of the market of international linear container transportations conducted by the FAS Russia<sup>2</sup>.

10. As a result of considering this case, a number of international shipping liners were accused of violating the first paragraph of Part 1 Article 11.1 of the Federal Law No. 135-FZ of 26 July 2006 "On Protection of Competition" (hereinafter - the Law on Protection of Competition) by performing concerted actions that led to establishing surcharges to freight rates in the market of container cargo transportation in 2012-2013.

11. The market research covered international container shipments in the Far East and Southeast Asia - Russian Federation - Far East and Southeast Asia directions.

12. The following initial information was used in the market study:

- Report of the State University of Marine and River Transport of Admiral S.O. Makarov "On the research of the market of international linear container

<sup>2</sup> Available at the link: <http://fas.gov.ru/documents/documentdetails.html?id=14046>.

transportations on directions Asia-Saint-Petersburg-Asia (hereinafter – the Research);

- Data of the Federal State Statistics Service, the Federal Tax Service, the Federal Customs Service and other government agencies; data of official sites of international linear container carriers;
- information obtained as a result of interrogations of linear container carriers and their customers; state standards; ISO 668 "Containers for cargo series 1. Classification, dimensions and nominal characteristics" of 1995.

13. The preliminary *definition of the product market boundaries* was made based on the analysis of provisions of Russian classifiers, standards, the Research data, as well as data received from linear carriers.

14. Further determination of product boundaries was carried out on the basis of a sample survey of customers (freight forwarders and end users) and the "hypothetical monopolist test", as well as an analysis of contracts' subject based on which services are provided.

15. *Determination of the market geographical boundaries* was carried out on the basis of information from contracts on the provision of sea liner container transportations services; results of a survey of linear container carriers and their agents; results of a survey of consumers of sea container shipping services for determining alternative ports of loading and unloading (services of which they use for organising transportation of goods in containers).

16. Indicators on the number of transported containers of various types in imports and exports were used to calculate the *volume of the commodity market* and *shares of economic entities* in the market. Data for calculation was obtained as a result of surveys of agents of linear container carriers.

17. The *concentration level* of the commodity market is determined on the basis of the market concentration coefficient and the Gerfindahl-Hirschman market concentration index.

## 1.2. Market study of carton materials for packaging liquid food products

18. An example of integrated use of own analysis of product features, surveys, information and documentation is the study of the market of carton materials for packaging liquid food products<sup>3</sup>. The analysis of this market was carried out for the period from January 2013 to March 2015 in connection with complaints received by the FAS Russia on establishing monopolistically low prices for products by Elopak Ltd., which is prohibited in accordance with Part 1 of Art. 10 of the Law on Protection of Competition.

19. The information obtained from manufacturers and consumers of packaging for dairy products and the information from the Federal Customs Service were used as the initial information in the analysis.

20. The preliminary determination of *product boundaries* was made on the basis of terms of contracts concluded between the seller and consumers. When determining the product boundaries, the goods' features that determined the choice of buyers were

<sup>3</sup> Available at the link: <http://fas.gov.ru/documents/documentdetails.html?id=14426>

analyzed, in particular, the functional purpose (packaging of dairy products), the way of using the good (production); qualitative and technical characteristics (set out in the specifications of manufacturers).

21. The identification of goods that are potentially interchangeable was carried out by interviewing buyers and analyzing comparable goods that are included into one classification group with the good in question, including in accordance with the Russian Classifier of Products and the Technical Regulations of the Customs Union.

22. Also, when determining the product boundaries, the information of applicants and producers; customer survey data and the results of the "hypothetical monopolist test" and the terms of the contracts between the seller and consumers were analyzed.

23. When determining *geographical boundaries* of the market, conditions for the circulation of goods and information from the seller of goods were analyzed. In addition, the "hypothetical monopolist test" and the method of establishing actual sales areas for goods were used.

### 1.3. Market study for new civil gas masks

24. The market study for new civil gas masks and their modifications is an example of a shortened analysis conducted by the FAS Russia with the use of a set of materials, including state standards, acts, procurement requirements and the information received<sup>4</sup>.

25. The market analysis was conducted for the period from January 2013 to June 2016 in the course of consideration of the case of violation of Article 11 of the Law on Protection of Competition (prohibited agreements between undertakings) during open auctions for the supply of new civil gas masks and their modifications, through the organization of the cartel. The FAS Russia conducted a short analysis of the market as cartel cases do not require a full analysis of the market according to the Procedure. The analysis in this category of cases includes determining the time period for the study, product and geographical boundaries of the market, and ascertaining that competitive relationship between the parties to the agreement existed.

26. When analyzing the state of competition in the commodity market, the normative legal acts regulating relevant activities were used as the initial market information, including the Civil Code of the Russian Federation, Federal Law No. 28-FZ of 12 February 1998 "On Civil Defense", the corresponding orders of the Ministry for Civil Defence, Emergencies and Elimination of Consequences of Natural Disasters; state standards; information from public authorities and business entities; documents and information received during dawn raids.

27. As the subject of the anticompetitive agreement was maintenance of prices at the auctions, the *product boundaries* were determined on the basis of the subject of trades. To identify interchangeable goods, the FAS Russia used the "hypothetical monopolist test". In determining interchangeable goods, competitive documentation for purchases of gas masks for state needs and state standards was analyzed. When determining *geographical boundaries* of the market, the analysis of consumers' responses was used.

28. When verifying whether the *competitive relations existed between the cartel's parties*, the FAS Russia had to find out whether the parties had capacities to sell (deliver) the goods on the same commodity market in the territory of the Russian Federation. The competing economic entities were identified during the analysis of trades for supply of new civil gas masks that took place from January 2013 to May 2016, and also based on direct retail and wholesale sales.

<sup>4</sup> Available at the link: <http://fas.gov.ru/documents/documentdetails.html?id=14706>