Hogan Lovells

Federal Law on Protection of Competition

Further information
If you would like further information on any aspect of the issues described in this note please contact a person mentioned below or the person with whom you usually deal.

Contact
Oxana Balayan
Partner
T +7 495 933 3000
E oxana.balayan@hoganlovells.com

Contents

Federal Law on Protection of Competition of 26 July 2006 No. 135-FZ

*This note provides a brief summary of key aspects of Federal Law on Protection of Competition dated 26 July 2006 No. 135-FZ as amended (the "**Law**").*

1. INTRODUCTION

The Law became effective on 26 October 2006 and replaced two laws regulating the Russian commodity and financial markets, respectively.

2. PROHIBITED AGREEMENTS

The Law introduces a broad list of the prohibited horizontal and vertical agreements as well as new criteria for their identification. Some of the prohibited agreements may be allowed if their terms and conditions are justified economically or technologically.

According to the Law, vertical agreements are possible if they are constructed as a franchising agreement or if neither party thereto has a market share of more than 20%.

3. COORDINATED ACTIONS

The Law provides for the definition and criteria of coordinated actions which allows the Federal Antimonopoly Service of the Russian Federation (the "**FAS**") to detect an actual restriction of competition by the market players acting in coordination even where no formal or informal agreement between them can be evidenced.

4. DOMINANT POSITION

According to the Law, natural monopolies are considered to be in the dominant position. Any market player holding a market share of more than 50% is considered to be in the dominant position unless there is evidence to the contrary. Those who hold a market share in the range of 35% up to 50% may, under certain circumstances (such as e.g. limited access of their competitors to the market), be deemed to hold the dominant position. Even minor market players holding less than 35% market share can be considered to hold the dominant position if they act in a highly concentrated market sector where the competitors have a limited access and demand for the product is not flexible or if it is provided by the federal laws (for example, 25% market share is considered to provide the dominant position for a company rendering mobile radio-telephone communications' services).

5. ANTIMONOPOLY CLEARANCES

5.1 The following transactions will require an antimonopoly clearance, provided that the respective thresholds are met (with respect to the thresholds please refer to section 5.3 below):

(a) Reorganisation transactions:

(i) Merger; and

(ii) Accession.

(b) Acquisition transactions:

(i) Acquisition of voting shares in a Russian joint-stock company as a result of which the aggregate amount of voting shares held by the acquirer would then exceed 25%, or 50% if already higher than 25%, or 75% if already higher than 50%, of the entire voting capital of such company;

(ii) Acquisition of participation interests in a Russian limited liability company as a result of which the aggregate amount of participation interests held by the acquirer would then exceed 1/3, or 1/2 if already higher than 1/3, or 2/3 if already higher than 1/2, of the entire charter capital of such company;

(iii) Acquisition of operational and/or intangible assets or rights to use them which value constitutes more than 20% of the book value of the seller's assets (this does not apply to certain types of assets, i.e. land plots); and

(iv) Acquisition of rights to determine a company's business activities (e.g. through a shareholders' agreement etc.)

5.2 The establishment of a company can be subject to obtaining prior antimonopoly clearance, provided that the respective thresholds are met (with respect to the thresholds for the establishment of a company, please refer to 5.3(b) below) and provided that its shares are paid by the shares and/or assets of another company as described under 5.1(b)(i), (ii) or (iii) above.

5.3 The following thresholds are provided by the Law:

(a) Reorganisation transactions set out under 5.1 (a) above will generally require prior antimonopoly clearance if the value of the aggregate assets of the parties involved and their respective groups exceeds RUR 3 billion (currently approximately EUR 77 million[1]) or their aggregate turnover exceeds RUR 6 billion (currently approximately EUR 154 million).

(b) Acquisition transactions set out under 5.1(b) above will generally require prior antimonopoly clearance if the value of the

[1] Exchange rate used in this note is EUR 1 = RUR 39.

aggregate assets of the parties involved[2] and their respective groups exceeds RUR 7 billion (currently approximately EUR 180 million) or their aggregate turnover exceeds RUR 10 billion (currently approximately EUR 256 million). These thresholds will apply if the value of the aggregate assets of the target along with its group exceeds RUR 250 million (currently approximately EUR 6.4 million).

(c) Subsequent antimonopoly clearance will be generally required if the value of the aggregate assets of the parties involved[3] and their respective groups or their aggregate turnover exceeds RUR 400 million (currently approximately EUR 10 million). These thresholds will apply to the acquisition transactions described under 5.1(b) above if the value of the aggregate assets of the target along with its group exceeds RUR 60 million (currently approximately EUR 1.5 million).

Prior antimonopoly clearance will be in each case required for the transactions described under 5.1 above if any party involved[4] or any of its group companies is registered with the register of entities holding more than 35% market share or holding the dominant position. Such register is maintained by the FAS.

Although intra-group transactions would normally require prior clearance, it is possible for this requirement to be waived and replaced with a requirement for subsequent clearance if a group chart is submitted to the FAS one month prior to the transaction and there have been no changes in the group as of the date of the transaction. The FAS publishes the group chart on its web-site.

6. COMPETITION IN THE FINANCIAL MARKETS

Although similar requirements apply to financial organisations and transactions in financial markets according to the Law, relevant thresholds and criteria are determined by the Russian Government in cooperation with the Central Bank of the Russian Federation where applicable.

The merger and accession of credit organisations will require prior clearance with the FAS if the balance sheet value of the credit organisations' aggregate assets exceeds RUR 33 billion (currently approximately EUR 846 million). Acquisition of shares in a credit organisation is subject to prior clearance if the balance sheet value of assets of the credit organisation exceeds RUR 33 billion (currently approximately EUR 846 million).

The thresholds triggering prior clearance in case of merger, accession or share transfers for other financial organisations are considerably less than those for credit organisations and are RUR 200 million (currently approximately EUR 5 million) for insurance companies or RUR 1 billion (currently approximately EUR 25.6 million) for stock exchange houses.

May 2011

---

[2] Buyer and target in the case of acquisition; and founders and company whose shares and/or assets are contributed to the charter capital in the case of establishment.

[3] Merged or accessed companies as the case may be in the case of reorganisation; and buyer and target in the case of acquisition.

[4] Save for the seller in the case of acquisition; and the founders in the case of establishment of a company.

www.hoganlovells.com

Hogan Lovells has offices in:

Alicante	Chicago	Hong Kong	Munich	Shanghai
Amsterdam	Colorado Springs	Houston	New York	Silicon Valley
Baltimore	Denver	Jeddah*	Northern Virginia	Singapore
Beijing	Dubai	London	Paris	Tokyo
Berlin	Dusseldorf	Los Angeles	Philadelphia	Warsaw
Boulder	Frankfurt	Madrid	Prague	Washington DC
Brussels	Hamburg	Miami	Riyadh*	Zagreb*
Budapest*	Hanoi	Milan	Rome	
Caracas	Ho Chi Minh City	Moscow	San Francisco	