

Representation of clients at the antimonopoly body on issues related to preliminary approval of transactions and other agreements including agreements on joint activity

FAS of Russia is a state body authorized to control transactions and other actions which might affect competition (control over economic concentration).

Competition law provides that economic entities have the right to apply to FAS of Russia requesting it to check the compliance of their draft agreements to antimonopoly requirements

It is important to mention that prior to any appeal to FAS it is necessary to conduct a due diligence examination in order to determine whether it is viable to appeal to FAS and to choose the form of application (whether it should be a petition, a notification or a notice)

Within the framework of representing clients at FAS of Russia on the approval of transactions the following actions should be performed:

- preliminary analysis of a transaction (agreement) in order to determine if it requires antimonopoly approval;
- preparation of a draft application with the package of necessary documents;
- consultations with representatives of FAS of Russia;
- filing the documents with FAS of Russia and following up on the decision-making process (including preparation of additional documents if requested by FAS);
- obtaining an official reply with the FAS decision.

In the event of non-submission of petitions (notifications) or the submission of petitions (notifications) containing knowingly false data, as well as violation of the procedure and terms for filing, the law establishes that a fine of 500,000 rubles shall be imposed.

Furthermore, all transactions performed without preliminary approval by FAS can be contested in court on the basis of a claim filed by FAS and pronounced null and void.

Entering into an agreement which may be accepted as admissible in accordance with the Law on Competition in the absence of official approval from FAS of Russia confirming such admissibility may lead to the recognition of this agreement as a violation of competition law and the application of certain sanctions in the form of an administrative fine equal to 15% of the proceeds of the infringing party or an order requiring termination of the agreement.