



Federal Antimonopoly Service

***Advocacy and challenging
anti-competitive government actions***

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FAS Russia – independent government authority that directly to the Government of the Russian Federation.

Main functions of the FAS Russia:

- *Competition protection and antimonopoly regulation;*
- *Supervision over public procurement and procurement of companies with public ownership;*
- *Control over natural monopolies;*
- *Control over distribution of property, resources and rights on a competitive basis;*
- *Control over anticompetitive actions of public authorities.*



The FAS Russia is «full-cycle» authority of antimonopoly control

- *considers applications;*
- *conducts investigations;*
- *initiates and investigates cases;*
- *makes decisions;*
- *issues determinations;*
- *makes decisions on imposing fines;*
- *controls over judgment execution;*
- *maintains decisions in courts.*

Absence of exemptions and sectoral exceptions

FAS Russia is a network authority represented through its 85 Regional Offices in all subjects of the Russian Federation:



- ***sovereignty from public authorities of the subjects of the Russian Federation (reporting only to the FAS Russia);***
- ***independence in making decisions on cases on violation of antimonopoly legislation;***
- ***horizontal cooperation (transmission of cases, joint investigations on trans-regional markets).***

2015 – expanding of powers

- ***Delegation of new functions to the FAS Russia for control over state defense procurement (A new law «On State Defense Procurement» (275-FZ) of July 1, 2015);***
- ***FAS Russia received functions in the sphere of tariff regulation. Federal Tariff Service (FTS Russia) was abolished by the Decree of the Russian Federation President No. 373 of July 21, 2015.***

Including settlement of disputes with public authorities of the subjects of the Russian Federation which are responsible for price control and regulation.

The Federal Law “On Protection of Competition” (135 FZ) prohibit of Acts, Actions (Inactions), Agreements and Concerted Practices of government authorities aimed to restrict competition such as:

- 1. creation of economic entities or exercising specific activities;***
- 2. establishing requirements to goods or economic entities that are not provided for by the legislation of the Russian Federation;***
- 3. imposition of bans or introduction of restrictions concerning free movement of products on the territory of the Russian Federation;***
- 4. issuing requests to economic entities on priority supply of products;***
- 5. granting unreasonable preferences;***
- 6. increase, decrease or maintaining of prices (tariffs);***
- 7. division of the goods market according to the territorial principle.***

***The Federal Law “On Protection of Competition”
(135 FZ) and Code on Administrative violations
define powers of the FAS Russia and sanctions for violation of
Article 15 and 16.***

FAS Russia issues binding determinations to the federal executive authorities, public authorities of the subjects of the Russian Federation, bodies of local self-government, as well as their officials, conducts investigations and initiate cases.

FAS Russia provides administrative liability for violation of the aforementioned provision. Administrative liability may be in a form of fines imposed on officials or their disqualification for three years in certain cases.

The 4th Antimonopoly Package

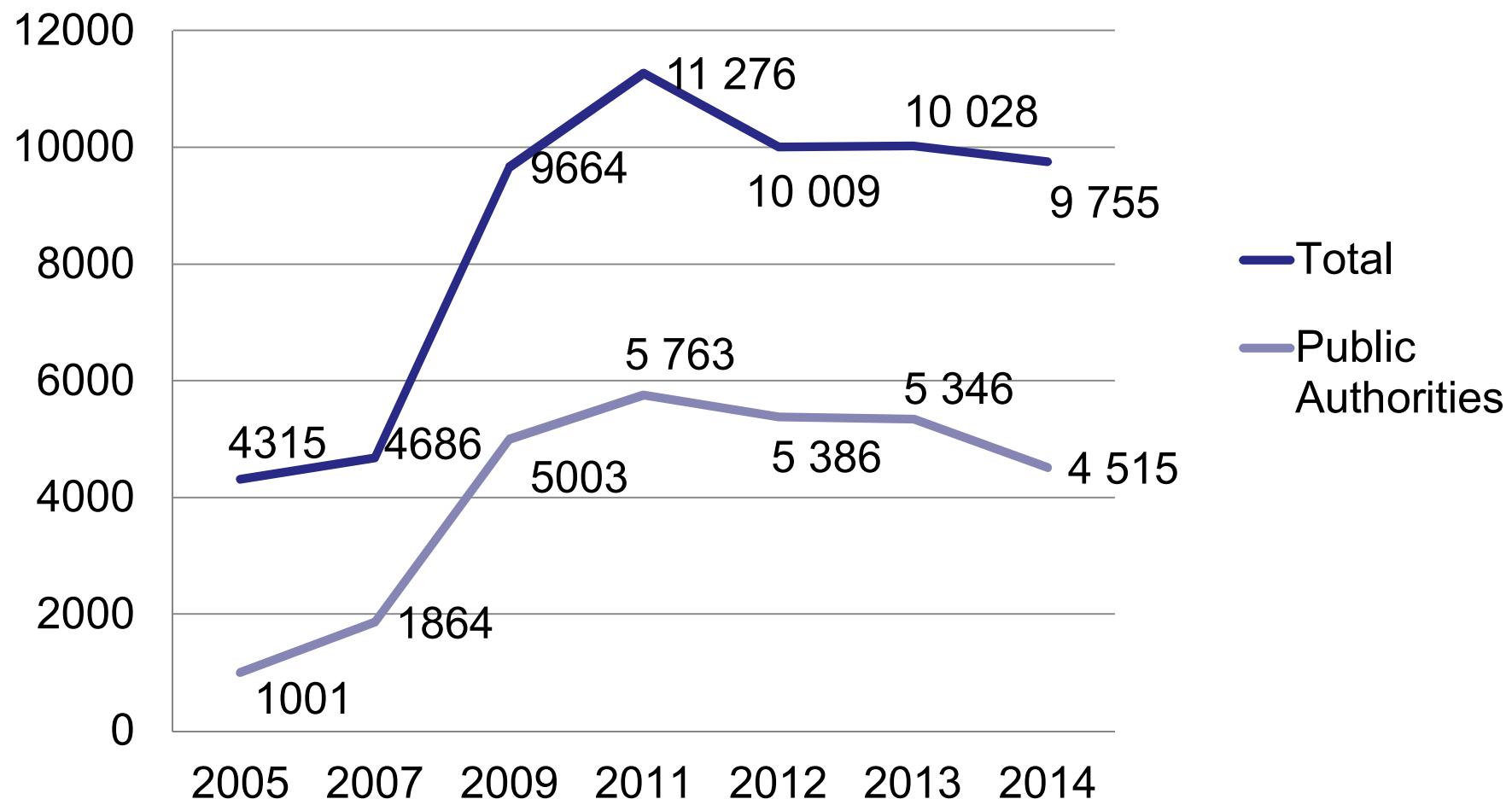
On October 5, 2015 the President of the Russian Federation, Vladimir Putin signed Federal Law “On Amendments to the Federal Law On Protection of Competition ” (so called “the 4th Antimonopoly Package”).

The new law comes into force in January, 2016.

- *issue warnings to the public officials which activity could lead to violation of Article 15 of the Federal Law «On protection of Competition».*
- *admonition to an official of authorities about prohibition to exercise actions that can lead to violating the antimonopoly law;*
- *providing non - alternative penalty, which is disqualification in case of repeated violation by officials of antimonopoly legislation.*

Dynamic of initiated proceedings

In 2014 the FAS Russia considered 6 452 applications and initiated 4 515 cases with respect to different public authorities. During the first six months of 2015 more 1 764 cases were initiated.



Anti-competitive actions of public authorities

In 2014-2015 about 50% cases on violation of antimonopoly legislation were committed by the public authorities, mainly all regional and municipal.

Main types of violations:

- ***Provision with illegal preferences and benefits to specific companies;***
- ***Issuing legislative acts that restrict competition;***
- ***Introduction ungrounded barriers and restrictions for private sector;***
- ***Collusions of government authorities with specific companies.***

CENTRAL EXCISE AUTHORITY (CEA)

CEA (Subdivision to Federal Custom Service) sent teletypograms to Heads of Energy Custom Stations that let to bunkering (fueling) and custom control at landing piers of oil loading terminals or during the sea raids only to vertically integrated oil companies. Other towing companies don't belong to large vertically integrated structures, were able to exercise bunkering/fueling only after provision of additional extra-statutory documentation.

The FAS Russia classified such actions as restriction of competition while bunkering and recognized CEA violated Part 1 Article 15 of the Law on Protection of Competition

Obninsk city Administration

Obninsk city Administration provided Municipal enterprise “Obninsk passenger transportation enterprise” with subsidies to regular passenger city transportation expenses on the territory of Obninsk city. In course of investigation, it was found that few tens of economic entities that provide passenger transportation services on the territory of Obninsk city but do not receive any subsidies.

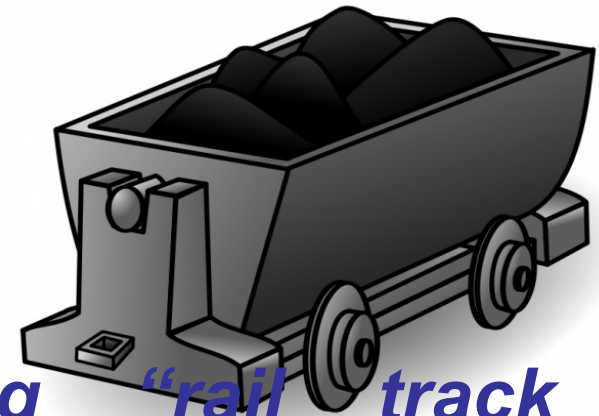
The FAS Russia determined that such actions could lead to unreasonable restrictions of scope of persons, which have a right to receive subsidies on compensation for regular passenger city transportation expenses and recognized Obninsk city Administration violated Part 1 Article 15 of Law on Protection of Competition.

Volokolamsk Municipal Administration

Volokolamsk Municipal Administration of Moscow Region, in particular, Committee for Property Administration, deprived economic entities of equal possibility to render land plot for shop construction. Announcement on future land plot lease was placed in the local newspaper without setting reasonable timeframe for reaction (it was set on the evening and submission of application were finished the next morning).

The FAS Russia classified such actions as creation of barriers to market entry and recognized Volokolamsk Municipal Administration violated Part 1 Article 15 of Law on Protection of Competition.

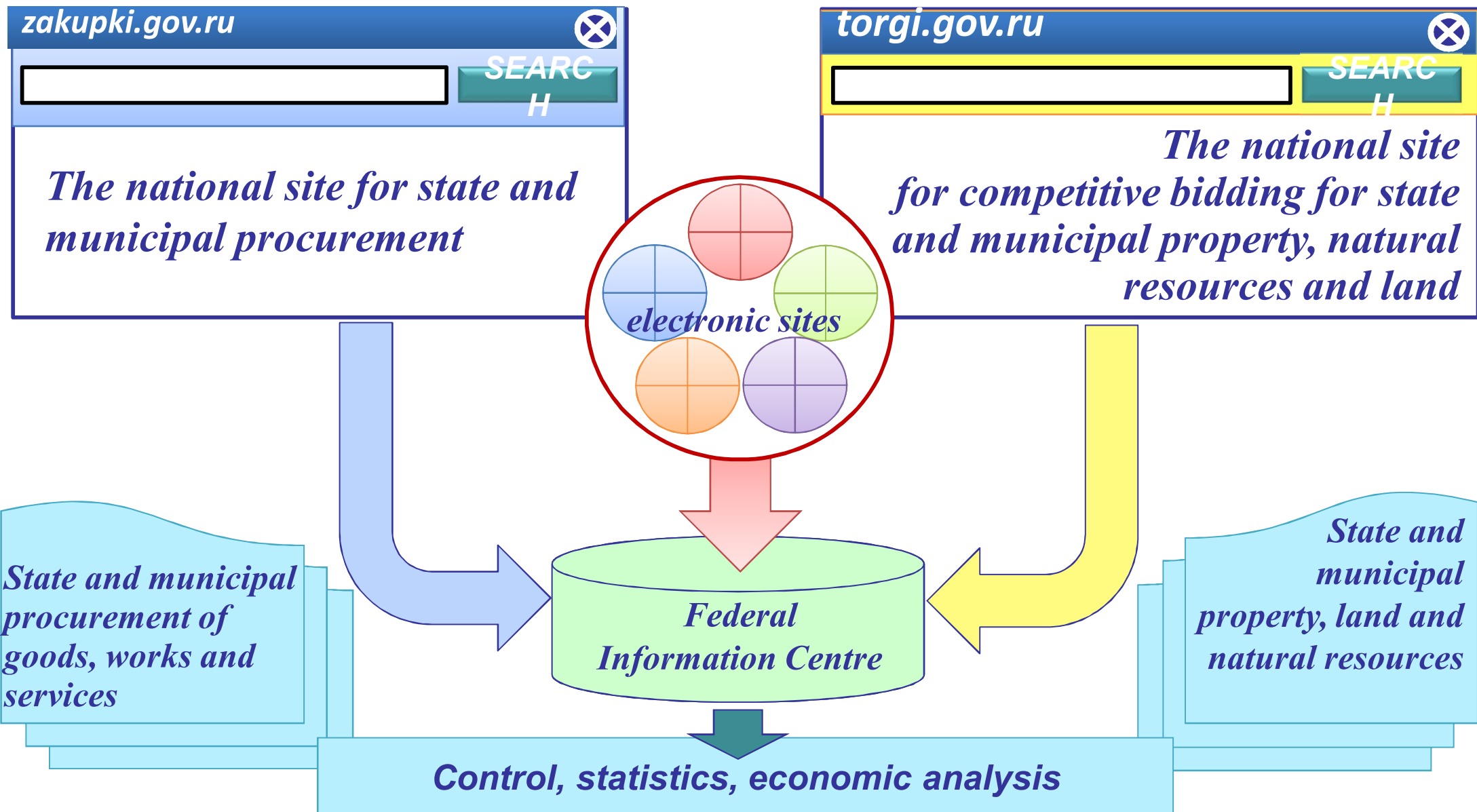
Kemerovo coal loading case (Article 16 of the Law “On Protection of Competition”)



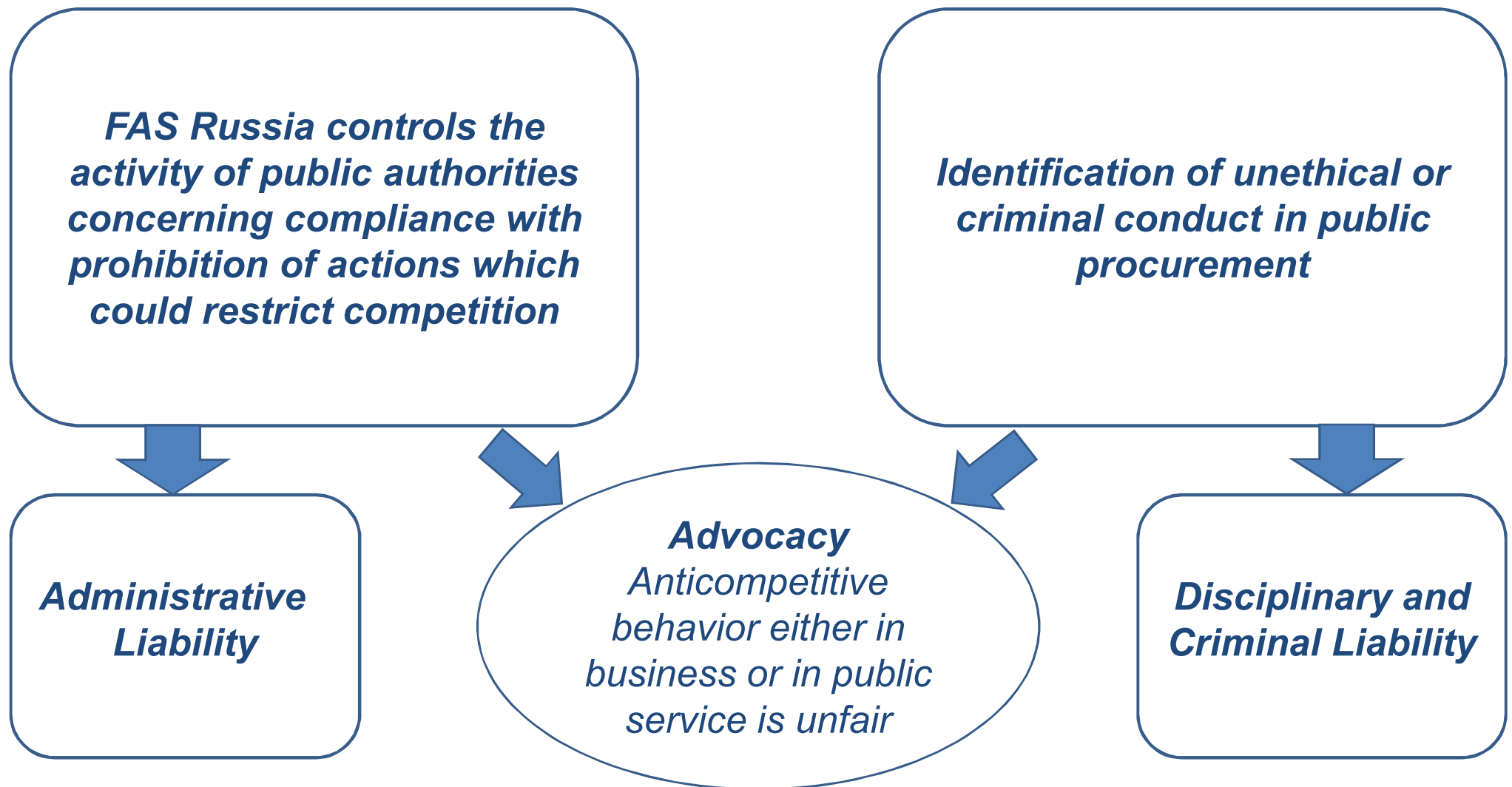
Under an excuse of combating “rail track congestion” that prevented coal loading, Kemerovo Regional Authority, “Russian Railways” OJSC and rolling stock operators, concluded an agreement, as a result of which the number of participants on the coal-loading market in the Kemerovo region was supposed to decrease from 230 to 16.

The amount of penalty imposed is more than 2 billion rub.

Public procurement and bidding – transparent approach



Competition Advocacy



Competition Advocacy

- *Annual reports presented by the FAS Russia;*
- *Public Reception Office;*
- *Administrative Regulation on Information Policy indicates the list of information open for access;*
- *Official web-site www.fas.gov.ru;*
- *Representation in blogs and social networks (Facebook, Twitter, Livejournal, V Kontakte) – over 40,000 users;*
- *Community Advisory Council of the FAS Russia;*
- *28 Advisory and Expert Councils;*
- *Non-Commercial Partnership “Promotion of Competition”;*
- *E-journal “Russian Competition Law and Economics”;*
- *Annual Russian Competition Day;*
- *The Centre for Education and Methodics of the FAS Russia;*
- *Social advertisement.*

Competition Advocacy



*Every year FAS Russia issues the **Black and White Books***

, reflecting the worst and best regional law-making practices that, restrict and promote respectively competition in various Russian regions.

These books are posted on the official web site (www.fas.gov.ru) of FAS Russia.

Government measures on development of competition

- **Functioning Government Commission on Competition and Development of Small and Medium Enterprises** (by № 762 Decree of the Government of the Russian Federation of 23 July 2012);
- **Approved the Road Map on “Developing Competition and Improving the Antimonopoly Policy”** (by No.2579-r Decree of the Government of the Russian Federation of 28 December 2012);
- **Approved Evaluation of performance of heads of territorial bodies of federal executive authorities and heads of federal subjects** (by № 197 Decree of the Government of the Russian Federation of 6 March 2015);
- **The Government of the Russian Federation approved the Competition Development Standard for the subjects of the Russian Federation** (by No. 1738-r Decree of the Government of the Russian Federation of 5 September 2015).

Competition Development Standard

On 5 September 2015 by the Government of the Russian Federation approved Competition Development Standard for the subjects of the Russian Federation (The standard was developed in 2014 to execute the Road Map for “Developing Competition and Improving the Antimonopoly Policy”)

In 2014 the FAS assisted in pilot introduction of the Standard in 6 regions and 15 subjects of the Russian Federation initiated introducing the Standard. At the moment the Standard is required for all regions of the Russian Federation.

Essence:

To develop competition in the regions, the Heads of the subjects of the Russian Federation (governors), in accord with the seven requirements of the Standard must:

- estimate empowered body;***
- form a collegial body to consider competition development issues;***
- approve the list of priority and socially important markets in view with the specifics of developing regional economy;***
- confirm draft the “Road Map” to support competition in a region;***
- monitor competition environment and evaluate performance of the authorities***
- create and implement tools of public control over the activity of the subjects of natural monopolies;***
- raise awareness about state of competition environment.***

Competition Development Standard

The standard secures:

- *forming of a transparent system of the regional authorities activity;*
- *creating incentives and conditions for developing and protection of small and medium companies;*
- *eliminating administrative barriers;*
- *achieving the key target figures characterizing competition development on the markets in the subjects of the Russian Federation.*

The result:

Since 1 January 2015 all governors are evaluated using a new criterion – supporting development of competition on the basis of the Standard.

***THANK YOU FOR YOUR
ATTENTION!***



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