

Dear Sirs,

June 10, 2013

We hereby wish to inform you that on May 29, 2013 the Presidium of the Federal Antimonopoly Service (hereinafter - FAS Russia) approved the draft of Clarifications on the analysis of joint venture agreements (hereinafter – the Clarifications) for the purposes of antitrust laws.

This draft was developed in order to determine unified approaches to the analysis of joint venture agreements that require prior consent of the antimonopoly authority or that are submitted to the antimonopoly authority in order to be checked for compliance with the antitrust laws. Clarifications extend to the agreements, which may establish the prices (tariffs), discounts, allowances (surcharges) and (or) the margins, as well as reduce or terminate production of goods.

Despite the fact that the Clarifications are not mandatory, adoption thereof will allow to understand the position of the antimonopoly authority more clearly and will provide guidance to businesses and law enforcers. The Clarifications provide a detailed definition of the joint venture agreements, which is not stipulated by law, and set out the criteria and methods for determining the admissibility of such agreements.

In particular, the Clarifications stipulate that joint venture agreements may provide that the parties shall not compete with each other (as well as with the entities belonging to the same group of persons with them) under agreement or with joint ventures they set up in the commodity market on which the parties plan to carry out joint activities at and / or create a joint venture, or on the related markets, and provide specific examples of provisions for non-competing with each other for the parties:

- undertaking not to produce/sell goods that are similar to goods produced by the joint venture;
- obligation of the parties not to use design, technology, etc., developed by the joint venture;
- undertaking not to sell the relevant goods on the market the joint venture will operate on, etc.

If the joint venture agreement does not contain terms that can lead to restriction of competition it is considered acceptable. If the agreement contains provisions stipulating that the parties shall not compete with each other, such agreement could potentially lead to the consequences set out in Article 11 of the Federal Law dated 26.07.2006 No. 135-FZ "On Protection of Competition" (hereinafter - the Competition Law) (cartels and other anti-competitive agreements). However, such provisions may be recognized as admissible under the conditions specified in part 1.1 of Article 13 of the Competition Law.

The procedure of analyzing the admissibility of agreements set by Clarifications as well as methods applied at each stage of the analysis allow to determine the effects of the joint venture agreement and to develop an agreement in accordance with the legislation in such a way that it does not restrict competition and contributes to the economic goals set by the parties.

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For more information on ALRUD Competition practice please visit our [Web-site](#) or contact directly Senior Partner, Head of ALRUD Competition practice [Vassily Rudomino](#).

Yours faithfully,  
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*Please note that this Newsletter should not be considered as a ground for making any decision regarding a particular issue. All the information for this Newsletter was taken from the public sources.*