

# The Russian Federation

**1. In which areas of structural reforms have the most significant progress been made in your economy in the past five years? Please describe in what way you think the progress has been significant? Any structural reform activity can be included here, and does not necessarily need to be restricted to the five LAISR themes.**

There was significant progress in the sphere of competition policy, legislation and enforcement for the last five years. Changes in the competition law provided for the basic trends in competition development.

The Federal Law “On Protection of Competition” (hereinafter referred to as the Law on protection of competition) came into force on 26 October 2006. It incorporated two pre-existed laws: the Law of the RSFSR (1991) “On Competition and Limitation of Monopolistic Activity in Commodities Markets” and the Federal Law (1999) “On Protection of Competition in Financial Services Markets”.

Although the Law on protection of competition introduced some new tools, changed some key notions, judicial and procedure instruments, the necessity to react on the changing situation in competition policy and enforcement in Russia required introduction of further amendments to the Russian competition legislation.

A year-long process of agreeing on the wordings of the amendments resulted in adoption by the President of the so-called “second antimonopoly package” – three Federal Laws amending the Law on protection of competition (2006) and some other Laws and containing about 150 amendments aimed to strengthen the control over competition law observance and at the same time promote steady economic development, transparent mechanisms of public procurement and more successful implementation of anti-corruption measures.

Taking into consideration amendments introduced to the Russian competition legislation from 2006 till 2009 the present competition legislation contains many significant achievements:

- extraterritorial principle of competition enforcement was extended;
- collective dominance was introduced; natural monopolies are *a priori* dominant; companies with market share less than 35 percent can be admitted as dominant provided they significantly impact market;
- administrative burden on economic entities was reduced (now only 10 percent of companies fall under the FAS Russia control compared to 90 percent before that; thresholds of assets merger review were considerably increased from 3 billion rubles to 7 billion rubles);
- antimonopoly control procedures were defined in detail;
- the list of agreements prohibited “per se” was shortened;
- the rule of reason was introduced with regard to certain actions and agreements; block exemptions were introduced;

- powers of the competition authority, including when conducting inspections were detailed;
- requirements to the general rules on non-discriminatory access to the infrastructure of natural monopolies were set, basing on which the sectoral rules are to be elaborated;
- other specific provisions aimed at competition development.

Moreover the administrative and criminal liability for violation of competition law was toughened:

- size of fines was considerably increased;
- turnover fines from 1 to 15 percent were introduced;
- disqualification for officials was introduced;
- imprisonment for up to seven years is now a reality;
- leniency program with detailed procedure was introduced as well.

All these measures, on the one hand, provided the competition authority with more powers to reveal infringement of competition law and to bring the violators to liability, and on the other hand deterred the potential violators to refrain from infringement. Moreover extensive advocacy resulted in gaining much support for competition principles introductions and implementation in various sectors both by the government of the Russian Federation and by the business community, academicians and civil society institutions.

All the above described changes provided for more effective competition enforcement practice. For instance, the number of initiated cases on anti-cartel enforcement raised in 2008 by 52.5 percent compared to 2007 (183 cases in 2008 against 120 cases in 2007). The size of fines on cartel infringement made up about US\$170,000 in 2007, more than US\$54 million in 2008, and already US\$28 million in the first half of 2009.

Moreover the on-going reforms of natural monopolies aim at provision of shift away from the state price-setting regulation and financial policy in this sphere, which became obsolete, to the market mechanisms of ensuring competition and balancing interests of producers and consumers through regulation of access at any point in the integrated process of provision of natural monopoly goods and services where the natural monopoly limits it and where access is necessary to develop competition.

**2. Describe examples of successful reforms and lessons learned in your economy in implementing structural reforms in the five LAISR areas. Please indicate relevant websites or other reference material, preferably those written in English.**

The day to day regulation of natural monopolies and the elaboration of plans for structural reform are an important part of the work of the Russian competition authority. There were conducted a number of pro-competitive reforms of natural monopolies in such sectors, as power energy, telecommunications, railway, public utilities, airport services sectors.

One of the most successful examples of such structural reforms was the reform of power energy sector. Its main idea was to increase the effectiveness of the sector enterprises, to create conditions for its development basing on investment stimulation and to provide reliable and no-break power for consumers.

Therefore the power energy system in Russia faced radical changes, in particular the system of sector state regulation was changed, the competitive market of power energy is being formed, new companies are being created.

The structure of sector is being changed during the reform: a separation of natural monopoly (transmission of power energy, operative-dispatch administration) and potentially competitive (production and sale of power energy, repair and service) functions is being executed, and the new structure specializing on certain types of activity are being formed instead of the vertically-integrated companies that executed all those functions.

The power energy sector reform was completed in 2008 by completing structural modifications and reorganization of the RAO "UES Russia" (United Energy Systems of Russia - the monopolist in power energy sector of Russia). During the next three years wholesale and retail market will operate under the transition rules, envisaging step-by-step market liberalization keeping tariff regulation under power energy transmission to citizens and types of consumers that are considered as citizens.

Presently the structure of generating companies created on the assets of RAO "UES Russia" is fully completed.

All transactions on creation of generating companies and stock sale were executed under the FAS Russia control according to the Law on protection of competition.

The generating companies are formed under the exterritorial sign taking into consideration the necessity to restrict market power of OGK (generating company of wholesale market) and TGK (territorial generating company) so that each of them will not be able to influence wholesale power energy market prices. This configuration of the generating companies had an independent expertise and on the whole is recognized as permissible from the perspective of creating conditions for real competition development on the wholesale market.

Thus the conditions for development of competitive power energy market were created, where the prices are not regulated by the state and are being formed due to the demand and supply and its participants compete reducing their costs.

Moreover the FAS Russia provides the control over observance of prohibition set forth the in the Federal Law No.36-FZ of 26 March 2003 to simultaneously have property for transmitting power energy and operative-dispatch administration and property for production and purchase and sale of power energy.

Reform of natural monopolies is ultimately aimed at providing the consumer with the right to select the supplier of the relevant services that will promote price growth constraint and establish quality standards for service rendering.

Examples of other actions undertaken in order to ensure competition development:  
<http://fas.gov.ru/english/decisions/15841.shtml>

<http://fas.gov.ru/english/decisions/22405.shtml>

**3. What in your economy's experience are the keys to the success of reform? (e.g. leadership, institutional framework, communication strategy, consultation process) What are the factors, if any, that impeded reform? What lessons can we learn from your experience?**

There are several factors that contributed to success of various reforms. Firstly this is effective advocacy that provides for social and political understanding of the necessity of the reform. Regular joint discussions with the representatives of business community, civil society institutions and sectoral experts within the frameworks of various consultation and expert councils provide for transparent mechanism of elaboration of relevant regulations.

Secondly this is the support by the government of the Russian Federation. Without a strong political will it would have been much harder to overcome lobby by stakeholders. For instance during the last 4 years reform of competition policy and enforcement has gone at a rapid speed due to the respective support of the President and Prime Minister of the Russian Federation.

**4. What are the impacts, both positive and negative, of the reform on the economy and the flow of trade and investment? Please provide data or statistics where available.**

Review of macro-economic indicators that reflect the rate of competition environment in the Russian economy and the respective interview of entrepreneurs testify that competition is a significant factor for economic activity.

The significant growth of the number of foreign companies that entered the various Russian markets since 2004 shows the high level of market openness and minor number of barriers in order to ensure stable competition.

For instance enter to the Russian power energy market of such foreign companies as Fortum, E.On, Enel was a result of the main goal of the reform – attraction of investments. Before the reform there was only one company working in power energy sectors, now there are 21 OGK and 14 TGK successfully working in this sector.

Moreover the new amendment to the competition legislation provided for further reduction of administrative barriers for economic activity. For instance, thresholds of assets for merger review were increased from US\$120 million to US\$280 million, notifications for mergers within one group of persons was made informative.

**5. In what ways can APEC better promote structural reform in the region? What would be some possible next steps beyond 2010 based on the achievement of the LAISR process?**

The first option is to enhance sharing of best practices. An opportunity to learn about potential problems and their solutions in advance can prevent from unnecessary mistakes and loss of time.

The second option is to elaborate certain recommendations on various aspects of structural reform basing on the APEC members experience.