

Improving antitrust instruments for food security

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Abstract. The study aims to substantiate the fact that the development of agro-industrial complex imposes new requirements for the formation of anti-monopoly regulation tools. The authors point out the threat of cartelization of the industry to food security. It is shown that the cartel violations are systemic in the markets of agroindustrial complex. New features typical of cartel behavior of companies have been identified. It was found that the emergence of new software algorithms greatly facilitates collusion on the market, opens up the possibility of changing the nature of competition, which imposes new requirements for the formation of antitrust regulation tools. It has been marked that it is difficult to suppress anticompetitive practices to develop a complex of measures in order to counteract the cartels: modern technologies of data analysis, application of mathematical modeling methods, economic analysis and also prohibition for development and distribution of price algorithms, their use for establishing of price control.

1 Introduction

One of the priorities in the development of the country's agro-industrial production is to ensure food security. Based on the tasks set out in the Food Security Doctrine of the Russian Federation, the main direction in this sphere is to improve the tools of anti-monopoly regulation of the agricultural products and food market in order to create a competitive environment.

In the international practice of anti-monopoly regulation of food markets under the crisis conditions, caused by the spread of coronavirus infection, the following trends are observed: strengthening of liberalization of anti-monopoly regulation, focus on serious violations of anti-monopoly legislation; encouragement of pro-competitive behavior of market participants, development of new methods of investigation, standards of market analysis, improvement of legal regulations.

A tool for antitrust regulation in the pandemic agribusiness sector is the inspection of food suppliers and retail chains for compliance with antitrust law. The number of cases brought by competition authorities against business entities in the agro-industrial sector is increasing.

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The authority of the competition authority to crack down on cartel collusion in the agricultural sector is increasing. Food markets are characterised by a high degree of cartelisation, which undoubtedly carries the risk of restricting competition and poses a real threat to the country's economic security. The result of cartel agreements is damage to budgets of all levels, strengthening of the corruption component, reducing the competitiveness of domestic products, rising prices for food products, and social instability. It should be noted that the cartelisation of markets sets a negative trend for long-term economic development.

Analysis of the Russian practice of detecting and suppressing agreements and concerted actions shows that every year more than 300 cartels are identified, covering hundreds of procurements [1, p. 120]. According to studies, the average amount of overpricing by cartels is 10 - 15% [2, p. 29]. Cartels have become a threat to the country's economic security, as the damage caused by their activities on commodity markets, in procurement is estimated at 1.5 - 2% of GDP [3]. One of the important reasons for the active process of cartelization is that their attractiveness for the participants is growing due to the possibility of significant rewards from the collusion, which can outweigh the incentives of non-participation in concerted actions. A specific feature of cartels in Russia is the coalescence of public officials with business representatives in order to obtain certain advantages in business activities and to secure the necessary contracts.

The transformation of competition towards intensification, the high level of cartelization of food markets requires the development of new tools of anti-monopoly regulation, increasing the effectiveness of cartel identification, which should be considered through the prism of dynamic economic relations of companies on the markets [4]. In the presented work an attempt is made to outline some approaches to antitrust cartel regulation, as well as problematic issues that may arise in the process of enforcement.

2 Research methodology and methods

The study is based on the publications of modern domestic and foreign scientists on the issues of anti-monopoly regulation of food markets. In economic science, the development of optimal tools of anti-cartel regulation occupies one of the central places. The most fruitful studies in this area are the developments of M.A. Khamukov, who proposes an approach based on multiparametric analysis to identify a cartel [5]. The rationale for the application of screening based on a combination of indicators to identify cartels in commodity markets is reflected in the work of C.-C. J. Chew, M. Steencomb, H. White [6]. However, the issues associated with the development of new tools for cartel identification have not been sufficiently investigated, including the markets of agro-industrial complex. The methodological basis of the study was a systematic approach using the analytical method. The information basis of the study was the data of the Federal Antimonopoly Service of Russia.

3 Results

The systematisation of research on cartel detection and suppression has highlighted new factors in economic relations that are contributing to changes in the competitive environment in agri-food markets. Let us take a closer look at some of what we consider to be important changes. Firstly, the dynamics of agricultural markets give rise to new patterns of anticompetitive practices, requiring the adjustment of traditional regulatory tools, secondly, the boundaries of oligopolistic markets have transformed into cross-border, which necessitates international cooperation to suppress anti-competitive practices through

the convergence of control methods, including the study and adaptation of best practices, and thirdly, new software algorithms that become a common n

Anti-trust cartel violations have a complicated structure, require significant efforts of supervision authorities in detecting and suppressing such violations on commodity markets due to the established procedural restrictions, difficulty to prove the fact of violation. It is not possible to suppress cartels promptly, which is especially important in times of crisis. Market disruption caused by cartels disrupts production processes and lowers the living standards of the population. At the same time, the emerging situation of coronavirus infection has provoked disturbances in the vast majority of the commodity markets.

Due to the prevailing conditions for the spread of coronavirus infection, there has been a decrease in the number of collusions in competitive tendering. This is due to an increase in the number of situations in which a purchaser may award a contract for the purchase of any goods, works or services from a single supplier if there is a causal link between the subject matter of the purchase and its use in a pandemic environment. There have been cases of knowingly disseminating false information both about the prices of a number of socially important products and about circumstances that are dangerous to life and health. In these cases, a reliable regulatory tool is the issuance of warnings to officials for the false reporting of coordinated food price increases by suppliers to retail chains [7].

The formation and expansion of technological innovation has increased the possibilities for cartel formation. In particular, cartelists use modern technology to achieve anticompetitive agreements, such as the functionality that allows automated bidding (auction robot) or new ways to analyse and process data. The emergence of software algorithms that become a business practice may contribute to changes in the competitive environment. Domestic and foreign antimonopoly authorities have investigated cases where digital cartelists delegate the control and enforcement of agreements to appropriate algorithms, use a single algorithm to determine the market price, resulting in price-fixing and market-sharing arrangements. An example is the case conducted by the UK competition authorities on price fixing by online sellers who used automated software to price, monitor and adjust prices [1, p. 171]. Liability for the restriction of competition as a result of the use of algorithmic collusion, according to experts, should be borne by the companies that use this algorithm, as well as by the engineers for developing the software that coordinates prices. [8].

Detection of cartels in the digital sphere requires the use of a combination of antitrust tools: price monitoring, analysis of companies' behaviour on markets, analysis of information posted by market participants on their websites, checks on companies, analysis of contracts of market participants, obtaining information on counterparties of "price robots" developers.

We believe that to counteract cartels, including in the agricultural sector, it is necessary to solve the following tasks:

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One of the ways to overcome the negative effects of cartels is to form a positive judicial practice, and improve methods of obtaining information to detect the cartel;

Establishment of new methods of proving cartels, including the use of modern technologies of data analysis, application of mathematical modelling, economic analysis

Increasing administrative responsibility for anticompetitive agreements using price algorithms;

Introducing a ban on the development and dissemination of price algorithms and their use for establishing price controls anchoring the concept of price fixing in the antimonopoly legislation.

An important element of the anti-cartel strategy should be maximum publicity of the regulator's anti-cartel deterrence actions, which implies raising public and business

awareness of the harm caused by cartels and the dangers of cartelisation of the economy in terms of the damage inflicted. Market participants' awareness of legal standards and practices of their application in the field of cartel anticompetitive deterrence should be increased.

The response of the competition authority in this pandemic must be immediate in order to prevent price increases, shortages and other negative effects on both the food market and the consumer. The preventive measures to be applied include an amendment to the Code of Administrative Offences of the Russian Federation to establish an administrative penalty for the dissemination in the mass media and/or information and telecommunication networks of knowingly false information of public significance under the guise of reliable reports which has led to the establishment and maintenance of unreasonably high prices or shortages of goods due to a rush of demand.

4 Discussion and Conclusion

The development of the agro-industrial complex largely determines the level of food security of the state and the socio-economic situation in society. The agro-industrial complex in the context of the crisis caused by the spread of coronavirus infection, both socially and economically, becomes even more important. The challenges facing companies involved in agricultural production and foodstuffs include increased competition between market players, the growing number of cartels limiting competition, which requires the formation of new tools to identify them.

In today's economy, the formation of antitrust regulation tools is influenced by new trends in the changing nature of competition towards cross-border markets, significantly changing methods of control (flexible rules and procedures) and the nature of preventive measures. The focus of antitrust intervention is shifting from the regional to the national level, and legal rules are being adapted to the specifics of the market power of digital monopolies. Distinctive features of modern tools of regulation of competitive processes are taking into account the consequences of changes in market strategies, as well as the implementation of innovative goals of companies, the use of a wide range of tools of intervention, allowing not only to suppress violations, but also to contain them.

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