

VEGAS LEX ON PROS AND CONS OF FOURTH ANTIMONOPOLY PACKAGE AT FAS AND RSPP MEETING

Representatives of VEGAS LEX and the Federal Antimonopoly Service have joined the ‘fourth antimonopoly package’ discussion at a meeting of the Competition Development Committee of the Russian Union of Industrialists and Entrepreneurs (RSPP).

On November 26, 2015, member of the Russian Union of Industrialists and Entrepreneurs Board **Sergei Generalov** chaired a meeting of RSPP’s Competition Development Committee devoted to the revised Law on the Protection of Competition (the so-called ‘fourth antimonopoly package’) and its implications for businesses.

The participants discussed the potential for applying some of the innovations under the ‘fourth antimonopoly package,’ such as the amended regulation of unfair competition, the non-discriminatory access rules, and the new boards within the central office of the Federal Antimonopoly Service, – and the respective clarifications provided by FAS. The speakers included Deputy Head of the Federal Antimonopoly Service **Sergei Puzyrevsky**, Managing Partner of VEGAS LEX [Alexander Sitnikov](#) and various Committee members.

Alexander Sitnikov noted some significant positive novelties. In particular, the new legislation limits the criteria defining dominance (an entity with a market share of less than 35% no longer qualifies as dominant); includes a mechanism for overseeing the establishment of state and municipal unitary enterprises; establishes the FAS Presidium, a board with the authority to provide clarifications on the practical application of antitrust laws and to consider appeals against the FAS territorial bodies’ decisions before trial; changes the rules for granting state and municipal preferences, etc.

Mr. Sitnikov also expressed the business community’s concerns about certain provisions of the ‘fourth antimonopoly package’ that require attention and development, namely: further expansion of the scope of application of preventative measures, such as warnings and cautions (monopolistically high price, withdrawal, scaling back production), avoiding excessive control and administration of bidding organized by private companies and exempting non-mandatory bidding from antimonopoly requirements; and monitoring the interpretation of the abuse of dominance term (infringement of the interests of other businesses or indefinite numbers of consumers).

Deputy Head of the Federal Antimonopoly Service Department for Control over State Procurement **Artyom Lobov** spoke in detail about draft Federal Law № 821534-6 “On amendments to the Federal law “On procurement of goods, works, services by separate types of legal entities”, which is to come into force on January 1, 2016. The bill calls for the convergence of two procurement models established by the law “On the contract system” (44-FL) and the law “On procurement of Goods, Works and Services by Certain Types of Legal Entities” (223-FZ), and is intended to increase the transparency of procurement at certain types of legal entities; to reduce potential suppliers’ (contractors, performers) costs of participating in the bidding through the wide introduction of electronic trading technologies; and to optimize the customers’ procurement activities, also through the reduction of redundant reporting.*

The Committee members also gave their opinion on the bill that requires private companies with revenues of more than RUB 7 billion to make a certain percentage of their procurement from small businesses.

The participants decided to prepare summarized RSPP and Business Russia commentaries on the draft clarifications developed by FAS.

*Source: [the Consultant Plus website](#)

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