

Law of the Republic of Belarus

December 12, 2013 No 94-Z

On Counteraction to Monopolistic Activities and Promotion of Competition

Adopted by the House of Representatives on November 22, 2013

Approved by the Council of Republic on December 27, 2013

This Law determines organizational and legal grounds of counteraction to monopolistic activity and unfair competition and is aimed at securing conditions for promotion of fair competition and creation of effective functioning of commodity markets.

CHAPTER 1

GENERAL PROVISIONS

Article 1. Main terms used in this Law and their definitions

1. For the purposes of this Law, the following main terms and their definitions are used:

1.1. vertical agreement – an agreement between economic entities not being competitors one of which acquires a good or is its potential consumer and the other provides the good or is its potential seller;

1.2. interchangeable (analogous) goods – goods which can be compared according to their functional intended use, use, qualitative and technical characteristics, price (tariff) and other indices so that the consumer changes or is ready to change one good for the other in consumption, including when they are being consumed for production purposes;

1.3. state monopoly – a system of public relations under which the exclusive right to carrying out some kinds of activity, including entrepreneurial one, belongs to the state represented by separate state bodies or other economic entities specially authorized by the legislative acts;

1.4. state preference – a preference granted by the state to separate economic entities, which ensures for them more favourable conditions of activity, via transferring state property, other civil law rights or via granting measures of state support;

1.5. state bodies – the National Bank of the Republic of Belarus, Administration of Affairs of the President of the Republic of Belarus, National Academy of Belarus, other state bodies and state organizations, subordinated (reporting) to the President of the Republic of Belarus, republican bodies of state administration and other state organizations subordinated to the Government of the Republic of Belarus, local executive and administrative bodies;

1.6. group of persons – a set of natural persons and/or legal persons corresponding to one or several features:

an economic company (partnership) and a natural or legal person, if such a legal or natural person by virtue of its participation in the economic company (partnership) or in accordance with powers received from other persons, including on the basis of an agreement, has more than 50 percent of the total number of votes falling in the voting (stakes in the statutory fund) of this economic company (partnership);

an economic entity and a natural or legal person if such a natural or legal person exercises functions of the personal executive body of this economic entity;

an economic entity and a natural or legal person if such a natural or legal person is entitled, on the basis of constituent documents of this economic entity or a contract (agreement) concluded with this economic entity, to give mandatory instructions to this economic entity;

economic entities in which more than 50 percent of the number of members of the collegial executive body and/or board of directors (supervisory board) are represented by the same natural persons;

a natural person, his (her) spouse, parents, adoptive parents, children, including adopted children, brothers and sisters;

persons each of whom belongs, according to any of the features specified in indents two to six of this sub-clause, to one group with the same person, and also other persons belonging to a group with any of such persons according to a feature from among those specified in indents two to six of this sub-clause;

an economic company (partnership), natural and/or legal persons, which belong to one group of persons according to any of the features specified in indents two – seven of this sub-clause, if by virtue of their joint participation in this economic company or partnership or in accordance with powers received from other persons have more than 50 percent of the total number of votes falling in the voting (stakes in the statutory fund) of this economic company (partnership);

1.7. discriminatory conditions – conditions for access to a commodity market, production, exchange, consumption, acquisition, sale, other transfer of a good under which an economic entity or several economic entities are put in a unequal situation in comparison with another economic entity or other economic entities with regard to conditions, restrictions and peculiarities, provided by treaties of the Republic of Belarus;

1.8. competitors – economic entities carrying out entrepreneurial activity on the same commodity market;

1.9. competition – competitiveness of economic entities under which independent actions of each of them exclude or restrict a possibility to influence unilaterally common conditions of circulation of goods in a respective commodity market;

1.10. coordination of economic activity – accommodation of actions of economic entities by a third person not belonging to one group with none of such economic entities and not carrying out activity in the commodity market (commodity markets) in which the accommodation of actions of economic entities takes place;

1.11. indirect control – a possibility of a natural or legal person to determine decisions taken by a legal person through a legal person (legal persons) between which there is a direct control;

1.12. monopolistic activity – actions (omission) contradicting this Law of economic entities, state bodies, aimed at prevention, restriction or elimination of competition;

1.13. monopolistically high price – a price (tariff) established by an economic entity having a dominant position, which exceeds the sum of expenses and profits necessary for the production and realization of goods, as well as the price (tariff) formed under the conditions of competition in the commodity market comparable as to the composition of consumers or sellers of commodities, the conditions of circulation of goods and access to the commodity market, state regulation, including taxation or price (tariff) established on the same commodity market before, if such a price (tariff) was formed under the conditions of competition;

1.14. monopolistically low price – a price (tariff) established by an economic entity having a dominant position, which is inferior to the sum of expenses and profits necessary for the production and realization of goods, and also inferior to the price (tariff) formed under the

conditions of competition on the commodity market comparable as to the composition of consumers or sellers of goods, the conditions of circulation of goods and access to the commodity market, state regulation, including taxation;

1.15. unfair competition – any actions of an economic entity or several economic entities aimed at obtaining an advantage in entrepreneurial activity contradicting this Law, other acts of antimonopoly legislation or requirements of good faith and reasonableness and can cause or have caused losses to other competitors or damage to their business reputation;

1.16. consumer – a legal subject that intends to order or acquire a good or is ordering, buying and (or) using a good if in the latter case the good, including a component of another good, is the subject of civil law transactions made or being made;

1.17. seller – an economic entity alienating a good or having intention to carry out its alienation;

1.18 direct control – the possibility of a legal or natural person to influence decisions taken by a legal person, through one or more actions stipulating:

exercising of functions of its executive body;

getting the right to determine the conditions of performing entrepreneurial activity of the legal person;

disposal of more than 50 percent of the total number of votes falling on shares (stakes in the statutory fund) of the legal person;

1.19. contract – agreement in a written form contained in one document or several documents, as well as an agreement in an oral form;

1.20. good – all kinds of objects of civil rights that may be subjects of transactions of sale or exchange or are intended to be put into circulation in another way, as well as works and services, including financial ones, non-prohibited by the legislation which are, or may be, performed or rendered or usually performed or rendered to consumers on a for-compensation basis;

1.21. commodity market – sphere of circulation of a good having no substitutes or interchangeable (analogous) goods on the territory of the Republic of Belarus or its part, being determined on the basis of economic, technical and other possibility of the consumer or expediency to purchase the good in a certain territory or absence of this possibility or expediency outside its territory;

1.22. economic entities – legal persons and individual entrepreneurs carrying out entrepreneurial activity and (or) having the right to carry it out;

1.23. price (tariff) – monetary expression of the value of a good unit, and also any discounts, markups (surcharges), extra charges, rents, remuneration;

1.24. economic concentration – transactions, other actions, the implementation of which has or can have an impact on the state of competition, including the creation and reorganization of commercial organizations in the form of a merger or acquisition, their associations, including transactions with shares (stakes in statutory funds) of economic entities.

2. Definitions of other terms are specified in separate articles of this Law.

3. For the purposes of this Law a group of persons is regarded as a single economic entity. Provisions of this Law relating to economic entities are applied equally to a group of persons.

Article 2. Anti-monopoly legislation

1. Anti-monopoly legislation of the Republic of Belarus is based on the Constitution of the Republic of Belarus and consists of this Law and other acts of legislation, including treaties of the Republic of Belarus.

2. If a treaty of the Republic of Belarus establishes other rules than those contained in this Law, the rules of the treaty are applied.

Article 3. Main principles of state policy in the sphere of counteraction to monopolistic activities and promotion of competition

State policy in the sphere of counteraction to monopolistic activity and promotion of competition is based on the following principles:

application of anti-monopoly legislation to economic entities in equal measure and on equal terms, regardless of the type of ownership, organizational and legal form and place of registration of legal persons, citizenship, place of residence, property and official status of natural persons and other circumstances (the principle of equality at application of anti-monopoly legislation);

prohibition to apply acts not allowing, restricting or eliminating competition and actions (omission) of state bodies and their officials (the principle of inadmissibility of anti-competitive actions of state bodies);

ensuring effective control over the observance of anti-monopoly legislation, including over transactions, other actions, recognized as economic concentration, to the extent necessary for the protection and promotion of competition (the principle of ensuring the effective control over economic concentration);

availability of effective sanctions for actions not allowing, restricting or eliminating competition in relation to economic entities, officials of economic entities – legal persons, state bodies, their officials, as well as natural persons not considered economic entities, to be applied on the basis of proportionality, implementability, inevitability and certainty of decisions being taken, and ensuring control over their implementation (the principle of the effectiveness of sanctions for committing anti-competitive actions);

ensuring information transparency of state policy in the sphere of counteraction to monopolistic activity and promotion of competition pursued by the antimonopoly body, including through placing the information on their activities in the mass media, on their official websites in the global computer network Internet (the principle of information transparency);

interaction of the antimonopoly body with other state bodies, authorized bodies of foreign states to the extent necessary for the implementation of effective state policy in the sphere of counteraction to monopolistic activity and promotion of competition (the principle of effective cooperation).

Article 4. Scope of application of this Law

1. This Law is effective for the whole territory of the Republic of Belarus and is applied to relations in which participate economic entities, officials of economic entities – legal persons, state bodies and their officials acting on commodity markets, as well as to relations connected with counteraction to monopolistic activity and unfair competition, creation and effective functioning of commodity markets on which economic entities, officials of economic entities – legal persons, state bodies, their officials and natural persons not considered economic entities act.

2. Norms of this Law are applied to relations on commodity markets where goods have limited turnover capacity unless otherwise established by the legislative acts containing legal norms on turnover of these types of commodities.

3. Provisions of this Law are also applied in cases when:

3.1 economic entities, officials of economic entities – legal persons, state bodies, their officials, natural persons not considered economic entities exercise actions (omission) outside the territory of the Republic of Belarus, which lead or may lead to prevention, restriction or elimination of competition on commodity markets of the Republic of Belarus;

3.2 actions determined by this Law as economic concentration are performed outside the Republic of Belarus in relation to economic entities registered on the territory of the Republic of Belarus.

4. This Law is applied to natural monopoly subjects with regard to peculiarities provided by the legislation on natural monopolies.

5. Provisions of this Law are applied in full to the economic entity – natural monopoly subject, unless otherwise established by the President of the Republic of Belarus.

Article 5. Dominant position

1. Dominant position – an exclusive position of an economic entity or several economic entities on the commodity market, giving to that economic entity or those economic entities a possibility to have decisive influence on general conditions of the turnover of a good on the respective commodity market, and (or) to eliminate other economic entities from this commodity market, and (or) hinder access to this commodity market for other economic entities.

2. An economic entity is recognized as having dominant position when its share on the commodity market is 35 or more percent, or less than 35 percent, if the dominant position of such economic entity is established by the antimonopoly body based on the possibility of the economic entity to unilaterally determine the level of prices (tariffs) for a good and have a decisive influence on the general conditions of realization of the good on the respective commodity market, the availability of economic, technological, administrative or other restrictions to access to the commodity market, the period of existence of the possibility of an economic entity to have a decisive influence on the general conditions of the turnover of the good on the commodity market, with the exception of the case specified in clause 4 of this Article.

3. Each of several economic entities is recognized as having dominant position, with the exception of the case specified in clause 4 of this Article, if all of the following conditions are observed:

3.1 the total share of two economic entities that possess the greatest shares of the specific commodities on the commodity market constitutes 54 and more percent, or the total share of three economic entities that possess greatest shares of the specific goods on the commodity market constitutes 78 and more percent, or total share of four and more economic entities the share of which is more than shares of other economic entities on the respective commodity market exceeds 95 percent;

3.2. for a period of at least one year or, if such period is less than one year, for the period of existence of the commodity market, the shares of economic entities are unchanged or are subject to insignificant changes, and also access of new competitors to the respective commodity market is difficult.

4. An economic entity may not be recognized as having dominant position when its share on the commodity market does not exceed 15 percent, with the exception of the case provided by clause 5 of this Article.

5. The position of a natural monopoly entity on the commodity market being in the state of natural monopoly is recognized as dominant. Economic entities rendering services in the conditions of natural monopolies are subject to inclusion in the State Register of Natural Monopolies Entities in the order established by the legislation on natural monopolies.

6. The fact of establishing a dominant position of an economic entity entails its inclusion in the State Register of economic entities having dominant position on commodity markets, with the exception of the case provided by clause 5 of this Article. In order to prevent and eliminate the abuse of dominant position in case of its detection, within the control over the observance of anti-monopoly legislation, the anti-monopoly body shall exercise control over the volume of production, level of prices (tariffs) and other indicators of activity of the economic entity.

The grounds for exclusion of an economic entity from the State Register of economic entities having dominant position on commodity markets are the loss of their dominant position on the commodity market, liquidation (termination of activity) of the economic entity.

CHAPTER 2

STATE REGULATION IN THE SPHERE OF COUNTERACTION TO MONOPOLISTIC ACTIVITIES AND PROMOTION OF COMPETITION

Article 6. State policy in the sphere of counteraction to monopolistic activity and promotion of competition

1. Main directions of state policy in the sphere of counteraction to monopolistic activities and promotion of competition are determined by the President of the Republic of Belarus.

2. The Council of Ministers of the Republic of Belarus ensures the implementation of the state policy in the sphere of counteraction to monopolistic activities and promotion of competition.

3. Specially authorized state bodies (their structural divisions) carry out the state policy in the sphere of counteraction to monopolistic activity and promotion of competition.

4. Other state bodies shall, within their competence, facilitate the carrying out of the state policy in the sphere of counteraction to monopolistic activity and promotion of competition.

Article 7. Anti-monopoly body

The performance of functions of counteraction to monopolistic activity and promotion of competition is carried out by a republican body of state administration through the respective structural subdivisions – on the commodity markets of the Republic of Belarus and structural divisions of regional (Minsk city) executive committees – on the commodity markets of regions (Minsk city), authorized in accordance with the legislative acts, (hereinafter, unless otherwise established, – anti-monopoly body).

Article 8. Functions of anti-monopoly body

Anti-monopoly body performs the following main functions:

implements the state policy in the sphere of counteraction to monopolistic activity and promotion of competition;

exercises control over the observance of anti-monopoly laws by state bodies, economic entities and natural persons not considered as economic entities;

detects violations of the anti-monopoly legislation, take measures to counteract monopolistic activity, unfair competition, other violations of anti-monopoly legislation by state bodies, economic entities and natural persons not considered as economic entities;

facilitates the promotion of fair competition.

Article 9. Powers of anti-monopoly body

1. Anti-monopoly body exercises the following powers:

1.1. considers applications (proposals, statements, complaints) of economic entities, state bodies, natural persons not considered as economic entities:

on violation of the anti-monopoly legislation, including in the part of to unfair competition;

on conformity of contracts and other actions of economic entities to anti-monopoly legislation;

1.2. establishes the fact of presence (absence) of a violation of anti-monopoly legislation on the basis of available or received documents and (or) data;

1.3. performs, in the order established by the legislation, inspections of observance of anti-monopoly legislation, obtains necessary documents and information, explanations in written and (or) oral form;

1.4. conducts administrative proceedings on cases of administrative offences in the sphere of anti-monopoly legislation in accordance with the legislative acts;

1.5. issues binding prescriptions to economic entities, officials of economic entities – legal persons:

on termination of abuse of the dominant position by an economic entity and performing actions aimed at ensuring competition;

on termination of agreements and (or) concerted actions of economic entities restricting competition and performance of actions aimed at ensuring competition;

on termination of unfair competition;

on preventing actions that could obstruct the emergence of competition and (or) lead to prevention, restriction or elimination of competition and violation of the anti-monopoly legislation;

on termination of other violations of the anti-monopoly legislation;

on elimination of the consequences of violation of the anti-monopoly legislation;

on modification or restriction of the use of a firm name in case the anti-monopoly body has detected the fact of violation of anti-monopoly legislation, and persons whose rights are violated or may be violated, have filed a respective demand, or in case when the anti-monopoly body exercises control over the observance of anti-monopoly legislation, including over economic concentration;

on the fulfilment of economic, technical, informational and other demands to eliminate discriminatory conditions and to prevent their creation;

1.6. passes binding prescriptions to state bodies, their officials:

on abrogation or modification of legal acts not corresponding to the anti-monopoly legislation;

on termination or modification of agreements not corresponding to the anti-monopoly legislation;

on termination of other violations of the anti-monopoly legislation;

on commitment of actions aimed at ensuring competition;

1.7. applies in the prescribed order to courts with claims, statements on violation of the anti-monopoly legislation, including claims, statements:

on declaring as fully or partially invalid legal acts of state bodies not corresponding to the anti-monopoly legislation, including those creating unjustified obstructions to entrepreneurial activity;

on declaring as fully or partially invalid contracts not corresponding to the anti-monopoly legislation;

on compulsion to conclude a contract;

on modification or rescission of a contract;

on compulsion to execute decisions and (or) prescriptions of the anti-monopoly body;

1.8. forwards to the court cases on violation of the anti-monopoly legislation in order to bring to liability persons who committed such violation;

1.9. participates in court examination of cases relating to application and (or) violation of the anti-monopoly legislation;

1.10. carries out analysis and assessment of the state of commodity markets;

1.11. establishes a dominant position of an economic entity;

1.12. within the framework of exercising the function of control over observance of anti-monopoly legislation, controls the activities of economic entities, state bodies, and natural persons not considered as economic entities, including in the events of:

reorganization of economic entities having dominant position in the form of transformation into joint stock companies;

reorganization of economic entities in the form of a merger, takeover;

creation of a commercial organization if a contribution to its statutory fund is represented by shares (stake in the statutory fund) and (or) other property of another commercial organization or the commercial organization being created acquires shares (stakes in the statutory fund) and (or) other property of another commercial organization on the basis of a transfer act or division balance sheet and in relation to actions with these shares (stakes in the statutory fund), the control is provided in accordance with indents six to nine of this sub-clause;

creation of associations of economic entities in the form of holdings, associations, unions, public associations;

acquisition by an economic entity having a dominant position on a particular commodity market of shares (shares in the statutory fund) of another economic entity carrying out activities on the same commodity market;

acquisition by an economic entity or a natural person not considered as economic entity of 25 per cent or more of shares (stakes in the statutory fund) of an economic entity having dominant position on the commodity market, and also other transactions as a result of which the economic entity or natural person not considered as economic entity obtains a possibility to influence the decision-making of an economic entity having a dominant position on the commodity market;

acquisition by an economic entity or natural person not considered as economic entity, including on the basis of a contract of trust management of property, contract on joint activity or agency contract, of shares (stakes in the statutory fund) of an economic entity, in which such person obtains the right to dispose of more than 25 percent of shares (stakes in the statutory fund) of the economic entity, provided that prior to that acquisition such economic entity or

natural person not considered as economic entity had not disposed of shares (stakes in the statutory fund) of that economic entity or disposed of not more than 25 percent of shares (stakes in the statutory fund) of the economic entity, and also if the acquisition of shares (stakes in the statutory fund) of an economic entity is performed by an economic entity or natural person not considered as economic entity disposing of not less than 25 percent and not more than 50 percent of shares (stakes in the statutory fund) of that economic entity, if the economic entity or natural person not considered as economic entity obtains the right to dispose of more than 50 percent of such shares (stakes in the statutory fund);

acquisition of the right of participation of the same economic entities, natural persons not considered as economic entities in the executive bodies, boards of directors, supervisory boards or other governing bodies of two or more economic entities carrying out activity on the market of interchangeable (analogous) goods at the presence of a possibility of those economic entities, natural persons not considered as economic entities to determine the conditions of conducting entrepreneurial activity by those economic entities;

1.13. analyzes activities of economic entities having dominant position on the respective commodity market;

1.14. conducts the State Register of economic entities having dominant position on the commodity markets;

1.15. concludes contracts in the order established by the authorized republican body of state administration in the sphere of counteraction to monopolistic activity and promotion of competition, with legal persons having a dominant position on commodity markets, which determine obligatory conditions excluding the monopolistic activities of those entities, and also the limits for change of price (tariffs) for goods.

Validity conditions of such contracts are determined by the anti-monopoly body;

1.16. forwards proposals on taking measures within their competence to facilitate the development of commodity markets and competition to state bodies, economic entities;

1.17. exercises other powers provided by this Law and other acts of legislation.

2. 2. In addition to the powers specified in clause 1 of this Article, the authorized republican body of state administration in the sphere of counteraction to monopolistic activity and promotion of competition exercises the following powers:

2.1. develops proposals on the formation and implementation of the state policy in the sphere of counteraction to monopolistic activities and promotion of competition;

2.2. develops and within its competence issues normative legal acts in the sphere of counteraction to monopolistic activity and promotion of competition, including determines:

the order of formation and conduct of the State Register of economic entities having dominant position on the commodity markets;

the order of establishing presence (absence) of violation of the anti-monopoly legislation;

the order of determination of the dominant position of an economic entity;

2.3. participates in the process of agreeing draft normative legal acts, if such acts may restrict or eliminate competition on commodity markets or lead to emergence or strengthening of a dominant position of economic entities on commodity markets;

2.4. cancels, in whole or in part, illegal, unsubstantiated decisions and (or) prescriptions of structural divisions of regional (Minsk city) executive committees, performing the functions of anti-monopoly regulation and control on commodity markets in regions (city of Minsk);

2.5. carries out international cooperation on issues within the competence of the anti-monopoly body;

2.6. summarizes and analyses the practice of application of anti-monopoly legislation, develops recommendations for its application;

2.7. gives explanations on the issues of application of anti-monopoly legislation in accordance with the legislation;

2.8. brings to liability for violation of the anti-monopoly legislation economic entities, officials of economic entities – legal persons and state bodies, natural persons not considered as economic entities, in the cases and order established by the legislative acts;

2.9. determines the jurisdiction of the following issues to the authorized republican body of state administration in the sphere of counteraction to monopolistic activities and the promotion of competition and structural divisions of regional (Minsk city) executive committees performing the functions of anti-monopoly regulation and control on commodity markets in regions (city of Minsk):

consideration of statements of economic entities, state bodies and natural persons not considered as economic entities, including those provided by clause 3 of Article 14, clause 2 of Article 17, clause 2 of Article 18 and clause 2 of Article 19 of this Law;

submission of claims, including those provided by clause 1 of Article 20 and Article 21 of this Law.

Article 10. Duty of anti-monopoly body to keep confidentiality of commercial, official and other secret protected by law

1. Information constituting commercial, official and other secret protected by law obtained by anti-monopoly body while exercising its powers is not subject to disclosure with the exception of cases provided by legislative acts.

2. For disclosure of information constituting commercial, official and other secret protected by law, the employees of anti-monopoly body shall be liable in accordance with the legislative acts.

Article 11. Interaction in the sphere of counteraction to monopolistic activity and promotion of competition

1. The anti-monopoly body and other state bodies, within their competence, interact with each other in the sphere of counteraction to monopolistic activity and unfair competition, exercising the state control over the observance of the anti-monopoly legislation, including over economic concentration, development of competition on commodity markets and provide information in this sphere.

2. The authorized republican body of state administration in the sphere of counteraction to monopolistic activity and promotion of competition, in accordance with the treaties of the Republic of Belarus, shall interact with anti-monopoly bodies of other states via forwarding notifications, requests for information, holding consultations, providing information concerning the consideration of cases affecting the interests of another state, consideration of cases (other actions) at the request of the authorized body of other states and providing information about its results.

CHAPTER 3

PROHIBITION OF MONOPOLISTIC ACTIVITY AND UNFAIR COMPETITION

Article 12. Prohibition of abuse of dominant position by an economic entity

Actions (omission) of an economic entity having dominant position, the results of which are or can be prevention, restriction or elimination of competition and (or) infringement of the interests of other economic entities are prohibited, including the following actions (omission):

obstructing access to the commodity market (withdrawal from the commodity market) for other economic entities;

fixing and maintaining monopolistically high or low prices for a good;

withdrawal of a good from circulation if the result of this withdrawal was the increase of price (tariff) for the good;

economically or technologically unjustified reduction or termination of the production of a good if there is a demand for this good or orders were placed for its delivery when there is a possibility of its profitable production;

economically or technologically unjustified refusal or evasion to conclude contracts with some consumers when there is a possibility of production or supply of the respective good;

economically, technologically or otherwise unjustified fixing of different prices (tariffs) for one and the same good;

imposition on the consumer of economically or technologically unjustified contract conditions, unfavourable for him or not related to the subject matter of the contract, including the consent to conclusion of a contract only subject to inclusion therein of provisions relating to goods in which the consumer is not interested;

conclusion of agreements restricting the freedom of parties to these agreements to determine prices (tariffs) and (or) terms of delivery (supply) of goods under contracts with third parties, as well as the imposition of such conditions or refusal to conclude a contract because of a refusal of the potential consumer to accept the mentioned conditions;

conclusion of agreements with sellers and (or) consumers that entail restriction or control over the production or markets for the good;

unequal treatment of consumers under the same conditions, which creates unequal conditions of competition for them, including the inclusion into contracts of discriminatory conditions which put consumers at a disadvantage in comparison with other economic entities.

Article 13. Prohibition of agreements restricting competition, concerted actions of economic entities

1. Contracts, concerted actions of economic entities, with the exception of vertical agreements acceptable in accordance with clause 2 of Article 14 of this Law are prohibited if it is stated that such agreements, concerted actions lead or can lead to prevention, restriction or elimination of competition, including contracts, concerted actions between competitors operating on the same commodity market, which have or may have as a result:

1.1. commodity market sharing by territorial principle; by type and amount of transactions; by types, volumes, assortment of goods and their prices (tariffs); by circle of buyers or consumers;

1.2. exclusion or restriction of access of other economic entities to the commodity market;

1.3. fixing, increasing, decreasing or maintaining prices (tariffs), including different prices (tariffs) for one and the same good;

1.4. increasing, decreasing or maintaining prices at trading;

1.5. economically or technologically unjustified reduction and (or) termination of the production of goods;

1.6. economically or technologically unjustified refusal to conclude contracts with certain sellers or consumers.

2. Concerted actions of economic entities prohibited in accordance with clause 1 of this Article are the actions of economic entities on a commodity market, satisfying the following conditions:

2.1. economic entities know in advance about actions of each other;

2.2. result of such actions corresponds to the interests of each of such economic entities;

2.3. actions of each of specified economic entities are prompted by actions of other economic entities participating in concerted actions, and are not the result of circumstances equally affecting all economic entities on the respective commodity market. Such circumstances may include a change in regulated prices (tariffs), change in the price of raw materials used for the production of a good, change in prices for the good on world commodity markets, a significant change in demand for the good within at least one year or within the term of existence of the respective commodity market, if such period is less than one year, and other circumstances.

3. Vertical agreements between economic entities, with the exception of vertical agreements accordance with clause 2 of Article 14 of this Act are prohibited if:

3.1. such agreements lead or can lead to the fixing of the resale price of the good, with the exception of the case when the seller establishes the maximum resale price of the good for the customer;

3.2. such an agreement stipulates the obligation of the consumer not to sell the good of an economic entity being a competitor of the seller. Such prohibition is not applied to agreements on organization of sale of goods by the consumer under the trademark or other means of individualization of the seller or manufacturer.

4. Legal and natural persons are prohibited to coordinate economic activities of economic entities if such coordination leads or can lead to the consequences listed in clause 1 and (or) in clause 3 of this Article.

5. Requirements of this Article are not applied to agreements on exercising exclusive rights to the results of intellectual activity, and also to the means of individualization of participants of the civil circulation of goods.

6. Provisions of this Article are not applied to agreements between economic entities belonging to one group of persons, if one of such economic entities has established a direct or indirect control in relation to another economic entity, and also if such economic entities are under a direct or indirect control of one person.

Article 14. Agreements, concerted actions of economic entities, which may be recognized as acceptable

1. Agreements, concerted actions provided by clause 1 of Article 13 of this Law, with the exception of vertical agreements acceptable in accordance with clause 2 of this Article may be recognized acceptable by the anti-monopoly body if they do not impose restrictions on economic entities, which are not necessary to achieve purposes of these agreements, concerted actions and do not create opportunities for prevention, restriction or elimination of competition on the respective commodity market, and if the economic entities prove that such contracts, concerted actions have or may have as a result:

1.1. facilitation of the improvement of production (realization) of goods or stimulation of technical (economic) progress or increasing of the competitiveness of goods produced in the Republic of Belarus on the world commodity market;

1.2. receipt by the consumer of a proportionate part of advantages (benefits) acquired by respective persons as a result of committing such actions.

2. Vertical agreements are acceptable if:

2.1. such agreements are contracts of a complex entrepreneurial license (franchising);

2.2. the share of each economic entity being a party to such an agreement on any commodity market does not exceed 15 percent.

3. Economic entities having the intention to conclude an agreement, which may be recognized as acceptable in accordance with clause 1 of this Article may apply to the anti-monopoly body with a written application for verification of the conformity of the draft agreement to the requirements of the anti-monopoly legislation.

Requirements for content and presentation form of necessary data and the order for consideration of applications specified in part 1 of this clause shall be determined by the authorized republican body of state administration in the sphere of counteraction to monopolistic activity and promotion of competition.

Article 15. Prohibition of acts and actions (omission) restricting competition, contracts, concerted actions of state bodies

1. Agreements reached in any form in any form, concerted actions (omission) of a state body with another state body or economic entity that have or can have as a result prevention, restriction or elimination of competition and (or) damage to the rights, freedoms and legitimate interests of legal and natural persons are prohibited, including agreements, concerted actions (omission) aimed at:

1.1. commodity market sharing by territorial principle; by types and volumes of transactions; by types, volumes, assortment of goods and their prices (tariffs); by circle of buyers or consumers;

1.2. restriction of access to, withdrawal of other economic entities from the commodity market, exclusion of economic entities therefrom;

1.3. economically, technologically and otherwise unjustified fixing of different prices (tariffs) for one and the same good;

1.4. illegally increasing, decreasing or maintaining prices (tariffs) for goods.

2. State bodies are prohibited, unless otherwise established by acts of the President of the Republic of Belarus, to adopt (issue) acts of legislation, other legal acts, to conclude agreements, to perform other actions (omission), restricting the autonomy of economic entities, which create discriminatory conditions for the activities of individual economic entities, if such acts or actions have or can have as a result prevention, restriction or elimination of competition and (or) damage to the rights, freedoms and legitimate interests of legal or natural persons, including the following:

2.1. to unreasonably obstruct the creation of new economic entities in any sphere of activity;

2.2. to impose bans on carrying out certain activities by economic entities, including the production of certain goods;

2.3. to restrict illegally the rights of economic entities to conclude transactions;

2.4. to impose bans or introduce restrictions on free movement of goods in the Republic of Belarus, other restrictions of the rights of economic entities to sale, purchase, acquisition of goods and their exchange;

2.5. give instructions to economic entities on priority supply of commodities to a specific circle of consumers or on priority conclusion of contracts;

2.6. provide access of an economic entity to information on a priority basis;

2.7. provide state preferences, with the exception of cases provided by the legislative acts.

3. It is prohibited to combine functions of state bodies and functions of economic entities with the exception of cases provided by the legislative acts, and also granting functions and rights of state bodies to economic entities.

Article 16. Prohibition of unfair competition

1. Unfair competition is allowed, including:

1.1. actions that may create confusion in regard to economic entities, goods or entrepreneurial activities of competitors, inclusive of:

illegal use by an economic entity of trade name, trademark (service mark), geographic indication not belonging to it on goods, their packages, signboards, at demonstrating of exhibits at exhibitions and trade fairs, in advertisements, printed media and other documentation, including introduction into civil circulation of goods with illegal use of results of intellectual activity, means of individualization of participants of civil circulation or their goods;

illegal copying of appearance of a good of another economic entity with the exception of cases when copying of one good or its parts (units, components) is conditioned exceptionally by their technical application;

introduction into civil circulation of goods of other economic entities using own means of individualization of the good, unless otherwise provided by the contract concluded between economic entities;

1.2. actions, when carrying out entrepreneurial activity, which may discredit an economic entity, goods or entrepreneurial activity of a competitor, including as a result of dissemination of false, unreliable, inaccurate, distorted data by the economic entity directly or through other persons in any form and by any means, including data which contain information that discredits the business reputation of an economic entity or its founder (participant, owner of the property), or employee, and (or) can undermine the credibility of the economic entity as producer of goods;

1.3. actions, when carrying out entrepreneurial activity, which can mislead in regard to the manufacturer, nature, consumer properties, quality, method and place of production, suitability for use or number of competitors' goods, including those carried out through incorrect comparison of a good produced by an economic entity with a good of a competitor and dissemination by the economic entity in any form and by any means of data containing false or inaccurate comparative characteristics of its own good and a good of a competitor which can affect the consumer's freedom of choice when purchasing goods or concluding transactions;

1.4. calls, appeals to other economic entities, other actions or threat of action on the part of an economic entity, directly or through other persons, aimed at preventing the formation of business contacts of a competitor, breach or termination thereof, obstruction of entrepreneurial activity of a competitor acting on the given market or seeking to enter it, including for the purposes of entering into business relationships with its business partners;

1.5. dissemination by an economic entity, in any form and by any means, of false statements and data about its own good for the purpose of concealment of its non-conformity to its intended use or requirements which it is to meet in terms of quality, consumer and other properties;

1.6. actions of economic entities, directly or through other persons, aimed at internal disorganization of entrepreneurial activity of a competitor, including providing employees of competitor with various material and other benefits with the view of incitement of those employees not to perform job duties or transfer to another job providing such benefits;

1.7. actions of economic entities aimed at the creation of the situation on the commodity market, in which the entrepreneurial activity of a competitor acting on a given market or seeking to enter it will be unprofitable or will be carried out on extremely unfavourable conditions.

2. Unfair competition related to the acquisition and use of an exclusive right to the means of individualization of participants of civil circulation or goods is not allowed.

CHAPTER 4

ECONOMIC CONCENTRATION. REORGANIZATION OF ECONOMIC ENTITIES HAVING DOMINANT POSITION ON COMMODITY MARKETS

Article 17. Reorganization of economic entities, creation of economic entities and their associations with the consent of anti-monopoly body

1. When exercising control in the cases provided by indents three to five of sub-clause 1.12 of clause 1 of Article 9 of this Law, the reorganization of commercial organizations, creation of commercial organizations and associations of economic entities are carried out with the consent of the anti-monopoly body, unless otherwise established by the President of the Republic of Belarus, provided that the balance sheet value of assets of one of the reorganized commercial organizations, one of the founders, being a legal person, of the created commercial organization, created associations of economic entities, determined on the basis of the accounting reports for the latest reporting date preceding the date of submission of the application mentioned in clause 2 of this Article exceeds one hundred thousand base units or the amount of revenue of one of reorganized commercial organizations, one of the founders, being a legal person, of the created commercial organization, created associations of economic entities from the realization of goods according to the results of the reporting year preceding the year of reorganization, creation exceeds two hundred thousand base units, or if one of the said entities is included in the State Register of economic entities with dominant position on commodity markets or the State Register of Natural Monopolies. In this instance the amount of the base unit is determined on the day of receipt of the respective application by the anti-monopoly body.

2. To obtain consent for the reorganization of commercial organizations, creation of commercial organizations and associations of economic entities, provided by clause 1 of this Article, economic entities shall submit an application to the anti-monopoly body, as well as documents and (or) data according to the list established by the Council of Ministers of the Republic of Belarus.

3. The order of consideration of the application, documents and (or) data specified in clause 2 of this Article, as well as forms and other requirements to submitted application, documents and (or) data shall be determined by the authorized republican body of state

administration in the sphere of counteraction to monopolistic activity and promotion of competition with regard to the provisions of this Article.

4. The anti-monopoly body within thirty days from the day of receipt of the respective application is entitled on the basis of the results of its consideration to take:

4.1. a decision on consent to the reorganization of the commercial organization, creation of the commercial organizations and association of economic entities, if this does not lead to the creation or strengthening of their dominant position on the commodity market and (or) prevention, restriction or elimination of competition. In this instance, the decision on the consent of the anti-monopoly body may contain conditions ensuring competitive behaviour of the economic entity (entities) on the commodity market;

4.2. a motivated decision on refusal to consent to the reorganization of the commercial organization, creation of the commercial organization and association of economic entities, if these actions can lead to the emergence or strengthening of a dominant position on the commodity market and (or) prevention, restriction or elimination of competition, and also if at consideration of submitted documents and (or) data it is established that the information contained therein, being important for a decision on the possibility of reorganizing the commercial organization, creating commercial organizations and association of economic entities is inaccurate and (or) incomplete.

5. The anti-monopoly body shall, within ten days from the day of receipt of the application, take decision on refusal to accept it in case when documents and (or) data specified in clause 2 of this Article are not submitted or do not meet the established requirements.

6. The anti-monopoly body is entitled to take the decision on consent to the reorganization of a commercial organization, creation of a commercial organization and association of economic entities when there is a possibility of emerging or strengthening of a dominant position of economic entities on the commodity market and (or) of prevention, restriction or elimination of competition if reorganized merging economic entities, the founders of the commercial organization prove that their actions have or may have as a result:

6.1. improvement of production (realization) of goods or stimulation of technical (economic) progress or increasing of the competitiveness of goods produced in the Republic of Belarus on the world commodity market;

6.2. receipt by the consumer of a proportionate part of advantages (benefits) acquired by respective persons as a result of committing such actions.

7. The decision of the anti-monopoly body on consent to reorganization of commercial organizations, creation of commercial organizations and associations of economic entities is valid for one year from the day of its receipt.

8. The requirements provided by this Article to obtain the consent of the anti-monopoly body are not applied if the reorganization of commercial organizations, creation of commercial organizations and associations of economic entities provided by clause 1 of this Article is carried out by persons belonging to one group of persons according to the characteristic specified in indent two of sub-clause 1.6 clause 1 of Article 1 of this Law.

Reorganization of commercial organizations, creation of commercial organizations and associations of economic entities in the cases provided by indents three to five of sub-clause 1.12 of clause 1 of Article 9 of this Law, being carried out by persons belonging to one group of persons according to the characteristic specified in indent two of sub-clause 1.6 clause 1 of

Article 1 of this Law, are carried out with compulsory written notification of the anti-monopoly body not later than within one month from the day of their carrying out.

Article 18. Transactions with shares (stakes in statutory funds) of economic entities with consent of the anti-monopoly body

1. The consent of the anti-monopoly body to perform transactions with shares (stakes in statutory funds) of economic entities is required when exercising control in the cases provided by indents six to nine of sub-clause 1.12 of clause 1 of Article 9 of this Law, provided that the balance sheet value of assets of the reorganized economic entity shares (stakes in statutory funds) of which and (or) rights in relation to which are being acquired, determined on the basis of the accounting reports for the latest reporting date exceeds one hundred thousand base units or the amount of revenue from the realization of goods according to the results of the reporting year preceding the year of acquisition exceeds two hundred thousand base units. In this instance the amount of the base unit is determined on the day of receipt of the application specified in clause 2 of this Article by the anti-monopoly body.

2. To obtain consent of the anti-monopoly body specified by clause one of this Article, legal and natural persons shall submit an application to the anti-monopoly body, and also the documents and (or) data according to the list established by the Council of Ministers of the Republic of Belarus.

3. The order of consideration of the application, documents and (or) data specified in clause 2 of this Article, as well as forms and other requirements to submitted application, documents and (or) data shall be determined by the authorized republican body of state administration in the sphere of counteraction to monopolistic activity and promotion of competition with regard to the provisions of this Article.

4. The anti-monopoly body within thirty days from the day of receipt of the respective application is entitled on the basis of the results of its consideration to take:

4.1. a decision on consent to the conclusion of the transaction, if this does not lead to the creation or strengthening of their dominant position on the commodity market and (or) prevention, restriction or elimination of competition. The decision on the consent of the anti-monopoly body to conclusion of the transaction may contain requirements eliminating or decreasing negative impact of the transaction on the competition. Such requirements may concern restrictions in management, use, or disposal of the property;

4.2. a motivated decision on refusal to consent to the conclusion of the transaction, if that transaction can lead to the emergence or strengthening of a dominant position of economic entities on the commodity market and (or) prevention, restriction or elimination of competition, and also if at consideration of submitted documents and (or) data it is established that the information contained therein, being important for a decision is inaccurate and (or) incomplete.

5. The anti-monopoly body shall, within ten days from the day of receipt of the application, take decision on refusal to accept it in case when documents and (or) data specified in clause 2 of this Article are not submitted or do not meet the established requirements.

6. The anti-monopoly body is entitled to take the decision on consent to the conclusion of the transaction when there is a possibility of emerging or strengthening of a dominant position of economic entities on the commodity market and (or) of prevention, restriction or elimination of competition if the parties to the transaction prove that their actions have or may have as a result:

6.1. improvement of production (realization) of goods or stimulation of technical (economic) progress or increasing of the competitiveness of goods produced in the Republic of Belarus on the world commodity market;

6.2. receipt by the consumer of a proportionate part of advantages (benefits) acquired by respective persons as a result of committing such actions.

7. The decision of the anti-monopoly body on consent to conclusion of transactions with shares (stakes in statutory funds) of economic entities is valid for one year from the day of its receipt.

8. The requirements provided by this Article to obtain the consent of the anti-monopoly body are not applied if transactions provided by clause 1 of this Article are performed by persons belonging to one group of persons according to the characteristic specified in indent two of sub-clause 1.6 clause 1 of Article 1 of this Law.

Transactions which are performed by persons belonging to one group of persons according to the characteristic specified in indent two of sub-clause 1.6 clause 1 of Article 1 of this Law and the attainment of the consent to performance of which is provided by clause 1 of this Article are carried out with compulsory written notification of the anti-monopoly body not later than within one month from the day of their performance.

Article 19. Reorganization of economic entities having dominant position

1. When exercising control provided by indent two of sub-clause 1.12 of clause 1 of Article 9 of this Law, the anti-monopoly body takes decision on the consent to the reorganization of economic entities having dominant position on the commodity markets, in the form of transformation into joint-stock companies.

2. To obtain consent provided by clause one of this Article, economic entities shall submit an application to the anti-monopoly body, and also the documents and (or) data according to the list established by the Council of Ministers of the Republic of Belarus.

3. The order of consideration of the respective application, documents and (or) data about the reorganization of economic entities having dominant position in the form of transformation into joint-stock companies, as well as forms and other requirements to submitted application, documents and (or) data shall be determined by the authorized republican body of state administration in the sphere of counteraction to monopolistic activity and promotion of competition with regard to the provisions of this Article.

4. The anti-monopoly body within thirty days from the day of receipt of the respective application is entitled on the basis of the results of its consideration to take a decision:

4.1. on giving consent to the reorganization of economic entities having dominant position in the form of transformation into joint stock companies;

4.2. on giving consent to the reorganization of economic entities having dominant position in the form of transformation into joint stock companies only subject to mandatory preliminary splitting-off out of the economic entities having dominant position of structural divisions with creation of a legal person in the case of:

possibility of organizational and/or territorial detachment of structural divisions;

absence of close technological interrelation between structural divisions;

separation of activity spheres of structural divisions within the framework of their narrow subject specialization;

impossibility to attract other economic entities on the respective commodity markets due to economic and political reasons.

5. Decisions on the consent of the anti-monopoly body provided by clause 4 of this Article may also contain conditions ensuring competitive behaviour of the economic entity on the commodity market.

6. The anti-monopoly body shall, within ten days from the day of receipt of the application, take decision on refusal to accept it in case when documents and (or) data specified in clause 2 of this Article are not submitted or do not meet the established requirements.

7. The decision of the anti-monopoly body on giving consent to the reorganization of economic entities having dominant position on commodity markets is valid for one year from the day of its receipt.

Article 20. Forced division of economic entities– legal persons, forced detachment out of splitting-off of the economic entity of one or more economic entities

1. In the event of violation by an economic entity - legal person having a dominant position of the prohibitions provided by Articles 12, 13, 15 and 16 of this Law, the court, upon the claim of the anti-monopoly body, is entitled to take a decision on forced division of the economic entity – legal person or a decision on forced splitting-off out of its composition of one or more economic entities – legal persons.

The claim provided by part one of this clause may be filed by the anti-monopoly body in case if an economic entity – legal person having dominant position has been brought to liability, twice in a calendar year, for violation of the prohibitions provided by Articles 12, 13, 15 and 16 of this Law.

2. The court's decision on forced division of the economic entity - legal person or a forced splitting-off out of its composition of one or more economic entities - legal persons shall be taken in order to promote competition, if all of the following conditions are met:

2.1. structural divisions can be organizational and/or detached;

2.2. absence of close technological interrelation between structural divisions;

2.3. activity spheres of structural divisions are separated within the framework of their narrow subject specialization;

2.4. impossibility to attract other economic entities on the respective commodity markets due to reasons of economic and political nature.

3. The court's decision on forced division of the economic entity - legal person or a forced splitting-off out of its composition of one or more economic entities - legal persons is subject to execution by the owner of the property (founders, shareholders) of the legal person, a body authorized by the economic entity - a legal person or body of the economic entity - legal person, authorized to reorganize it by the constituent documents, and in the cases provided by the legislation by the external manager having regard to the requirements provided by the mentioned decision and within a period specified by the mentioned decision and being not less than six month.

4. If the dominant position on the commodity market has arisen as a result of organization of the production of a good whose properties exceed the level of interchangeable (analogous) goods, the claim of the anti-monopoly body on forced division of the economic entity - legal person or a forced splitting-off out of its composition of one or more economic entities - legal

persons may be filed not earlier than one year after the appearance of this good on the commodity market, unless otherwise stipulated by the legislative acts.

Article 21. Consequences of the economic concentration, reorganization of economic entities having dominant position on the commodity markets without the consent of the anti-monopoly body

1. Failure to obtain consent of the anti-monopoly body provided by clause 1 of Article 17 and clause 1 of Article 19 of this Law, as well as non-fulfilment of conditions contained in the decisions on giving consent of the anti-monopoly body provided by sub-clause 4.1 of clause 4 of Article 17, clauses 4 and 5 of Article 19 of this Law, if actions that require the consent of the anti-monopoly body were actually committed and this led to the creation or strengthening of a dominant position of an economic entity on the commodity market and (or) the restriction or elimination of competition are the grounds for recognition of such actions as invalid by the court upon the claim of the anti-monopoly body.

2. Failure to obtain consent of the anti-monopoly body provided by clause 1 of Article 18 to perform transactions with shares (stakes in statutory funds) of economic entities, as well as non-fulfilment of conditions contained in the decision on giving consent of the anti-monopoly body provided by sub-clause 4.1 of clause 4 of Article 18 of this Law, if the said transactions have been actually performed and this led to the creation or strengthening of a dominant position of an economic entity on the commodity market and (or) the restriction or elimination of competition are the grounds for recognition of such actions as invalid by the court upon the claim of the anti-monopoly body.

CHAPTER 5

LIABILITY FOR VIOLATION OF ANTI-MONOPOLY LEGISLATION. DUTIES TO EXECUTE THE DEMANDS OF ANTI-MONOPOLY BODY

Article 22. Liability for violation of anti-monopoly legislation

1. Economic entities, officials of economic entities – legal persons, officials of state bodies, natural persons not considered as economic entities are liable for the violation of the anti-monopoly legislation in accordance with the legislative acts.

2. Bringing to liability of persons mentioned in clause 1 of this Article shall not release them from duty to execute decisions and (or) prescriptions of the anti-monopoly body and to exercise other actions provided by the anti-monopoly legislation.

Article 23. Duty of submitting information to anti-monopoly body

1. Economic entities, officials of economic entities – legal persons, state bodies, their officials, natural persons not considered as economic entities are obliged to submit to the anti-monopoly body, at its request and within the time limit specified thereby, documents, explanations, information in written and (or) oral form, including information constituting commercial, official or other secret protected by law, necessary for the anti-monopoly body in accordance with the authorized powers.

Information constituting commercial, official or other secret protected by law is submitted to the anti-monopoly body in accordance with the requirements of the legislation.

2. Economic entities, officials of economic entities – legal persons, state bodies, their officials, natural persons not considered as economic entities, which have not submitted within the established time limit, at the request of the anti-monopoly body, documents, explanations, information in written and (or) oral form, necessary for the anti-monopoly body in accordance

with the powers impose thereon, and also obstruct by their actions the exercise of its powers and do not fulfil its lawful instructions, bear the liability established by the legislative acts.

Article 24. Duty to execute decisions and (or) prescriptions of the anti-monopoly body

Economic entities, officials of economic entities – legal persons, state bodies, their officials, natural persons not considered as economic entities are obliged to execute legal decisions and (or) prescriptions of the anti-monopoly body in the time limit established by these decisions and (or) prescriptions.

CHAPTER 6

FINAL PROVISIONS

Article 25. Article 38. Recognition as invalid of some legislative acts and some provisions of laws

[translation is not given]

Article 26. Measures on implementation of provisions of this Law

1. The Council of Ministers of the Republic of Belarus shall till July 1, 2014:

bring the acts of legislation in compliance with this Law

take other measures necessary for implementation of provisions of this Law.

2. Until acts of legislation of the Republic of Belarus are brought in compliance with this Law, they are applied in the part not contradicting this Law, unless otherwise provided by the Constitution of the Republic of Belarus.

Article 27. Entry into force of this Law

This Law enters into force in the following order:

Articles 1-25 – from July 1, 2014;

other provisions – after the official publication of this Law.

President of the Republic of Belarus

A. Lukashenko