



On competition

Invalidated Unofficial translation

The Law of the Republic of Kazakhstan dated 25 December, 2008 No.112 – IV.

U n o f f i c i a l t r a n s l a t i o n

Footnote. It became null and void by the Code of the Republic of Kazakhstan dated 10.29.2015 No. 375-V (shall be enforced from 01.01.2016).

This Law regulates the social relations in the field of protection of competition, restriction of monopolistic activity and protection of legal rights of consumers.

SECTION 1. BASIC PROVISIONS

Chapter 1. General provisions

Article 1. Subject and purposes of this Law

1. This Law shall determine the legal principles of protection of rights of market entities and consumers from monopolistic activity, restricted by this Law, anticompetitive practices of the state bodies and unfair competition. The Law shall be directed to support and creation of cleared conditions for the fair competition on the goods markets of the Republic of Kazakhstan.

2. The purposes of this Law shall be protection of competition, creation of conditions for the effective performance of goods markets, ensuring the unity of economic territory, free transfer of goods and freedom of economic activity in the Republic of Kazakhstan.

Article 2. Antimonopoly legislation of the Republic of Kazakhstan

1. Antimonopoly legislation of the Republic of Kazakhstan shall be based on the Constitution of the Republic of Kazakhstan and shall consist of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If the international treaty, ratified by the Republic of Kazakhstan establishes the other rules, than those provided by this Law, the rules of international treaty shall be applied.

Article 3. The scope of application of this Law

1. This Law for the time being in the territory of the Republic of Kazakhstan and shall be distributed to the relations, which affect or may affect to competition on goods

markets of the Republic of Kazakhstan, in which participate the market entities, consumers as well as the state bodies.

2. Provisions of this Law shall be also applied to the committed actions of the market entity outside the territory of the Republic of Kazakhstan, if in the results of such actions the one of the following conditions is carried out:

- 1) directly or indirectly affected the basic assets and (or) intangible assets, or shares (share of participation in charter capital) of the market entities, property or non-property rights in relation of legal entities of the Republic of Kazakhstan;
- 2) restricted the competition in the Republic of Kazakhstan.

Article 4. Principles of competition

The basic principles of competition shall be:

- 1) contentiousness;
- 2) fair practices;
- 3) legality;
- 4) observation of rights of consumers.

The principles of competition, established by the first part of this Article shall be applied similarly, equally and on equal terms to all market entities independently from legal form of organization and places of registration of such market entities.

Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 5. The state policy in the scope of competition

1. The basic directions of the state policy in the field of competition shall be developed by the Government of the Republic of Kazakhstan and realized by the antimonopoly body.

1-1. Antimonopoly authority shall develop proposals on formation the state policy in the scope of protection of competition and restriction of monopolistic activity.

2. Central and local executive bodies shall participate in realization of the state policy in the field of competition within their competence, determined by this Law and other legislative acts of the Republic of Kazakhstan.

3. The state bodies shall be obliged to encourage development of competition and not perform the actions, adversely affected to the competition.

Footnote. Article 5 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Article 6. The basic concepts, used in this Law

The following basic concepts shall be used in this Law:

1) affiliated persons of legal entities, more than fifty percent of the shares (share) which belong to the state, - the legal entities, in which more than fifty percent of shares (share) directly or indirectly belong to the legal entities, more than fifty percent of shares (share) which belong to the state. Indirect affiliation shall signify belonging of more than fifty percent of the shares (share) of other legal entity to each subsequent affiliated person;

1-1) potential competitor – market entity, which has the opportunity (possess the equipment, technologies) to produce and (or) realize the goods, analogous or interchangeable with the competitive products, but not produce or realize it on the relevant goods market;

1-2) competitor – a market entity, being in the competitiveness condition with other entities of relevant market due to the fact that produce and (or) realize the goods on the relevant goods market, analogous or interchangeable with the competitive products;

2) competition – competitiveness of the market entities, upon which their separate actions effectively restrict opportunity of each of them to unilaterally affect on the general conditions of commodity circulation on the relevant goods market;

3) interchangeable goods – a group of goods, which may be compared by their functional purpose, application, quality and technical characteristics, price, as well as of other parameters in such a way that the consumer interchanges them with each other in the process of consumption (production);

3-1) indirect control – an opportunity of individual and legal entity to determine decision, adopted by the legal entities, through the legal entity or several legal entities, among which there is indirect control;

4) state monopoly – an exclusive right of the state on production, realization or purchase of any good on the competitive market, introduced according to the procedure , provided by this Law;

5) monopolistic activity – an activity of market entity, provision of which afford an opportunity to control the relevant goods market, as well as allow to exercise significant influence on general conditions of commodity circulation on the relevant goods market;

6) antimonopoly body – the state body, carrying out management in the scope of protection of competition and restriction of monopolistic activity, control and regulation of activity, related to the scope of the state monopoly;

7) monopolistic position – a position of natural monopoly entities, state monopoly, as well as market entities, occupying one hundred percent share on the relevant goods market;

8) monopolistic income – an income, earned by the market entity in the result of carrying out the monopolistic activity, restricted by this Law;

9) market entity – an individual, as well as legal entity of the Republic of Kazakhstan, foreign legal entity (his (her) branch or representation), carrying out an entrepreneurial activity.

Noncommercial organizations, carrying out an entrepreneurial activity in accordance with their charter purposes shall be related to the market entities.

10) regulated markets – goods markets, on which the state regulation of prices is introduced in accordance with the Laws of the Republic of Kazakhstan;

11) *Is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)*

12) seller (supplier) – an individual or legal entity, realizing (supplied) the goods;

13) good – good, work, service, being the subject of civil transactions;

14) goods market – the scope of transaction of goods or interchangeable goods, determined on the basis of economic, territorial and technological opportunities of the consumer to purchase the good;

15) investigation – a measure of antimonopoly body, directed to the gathering of actual data, approved or contradicted the commission of violations of antimonopoly legislation of the Republic of Kazakhstan according to the procedure, provided by this Law;

16) a consumer – an individual or legal entity, purchasing the good for own needs;

16-1) direct control – an opportunity of individual or legal entity to determine decision, adopted by the legal entity, by one or several of the following actions:

carrying out of functions of its executive body, board of directors;

acquisition the right to specify conditions of carrying the entrepreneurial activity of the legal entity;

disposition of more than fifty percent of the voting shares (share of participation in the charter capital, stocks) of a legal entity;

17) The State register of the market entity, holding the dominant or monopolistic position (hereinafter – register), - the list of market entities, holding the dominant or monopolistic position on the relevant goods market, except of the markets, being in the condition of natural or state monopoly;

18) coordination of economic activity - coordination of actions of market entities by third person, not included in the same group of persons with any of such market

entities and not carrying out an activity at that goods market (goods markets), whereon (which) the coordination of actions of market entities are carried out.

Footnote. Article 6 is in the wording of the Law of the Republic of Kazakhstan dated 10.07.2012 No. 34-V (shall be enforced from the date of its official publication); as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Article 7. Group of persons

1. A group of persons shall be a set of individuals and (or) legal entities, in respect to whom one of the following conditions are performed:

1) a person shall have a right to dispose directly or indirectly (through the third parties) more than fifty percent of the voting shares (share of participation in the charter capital, stocks) of a legal entity;

2) a legal entity or several affiliated legal entities shall have the opportunity to determine decision, adopted by other person, as well as specify conditions of carrying on entrepreneurial activity by this person or exercise powers of management body;

3) an individual, his (her) spouse, close relatives shall have the opportunity to determine decision, adopted by other person, as well as specify conditions of carrying on entrepreneurial activity by this person or exercise powers of management body;

4) persons, each of which included in a group with one and the same person on any ground, specified in subparagraphs 1) – 3) of this paragraph, as well as other persons, included with each of such persons in the same group on any ground, specified in subparagraphs 1) - 3) of this paragraph.

2. Group of persons shall be considered as united market entity. Provision of this Law, related to the market entities shall be distributed to the group of persons.

Footnote. Article 7 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

SECTION 2. MONOPOLISTIC ACTIVITY. UNFAIR COMPETITION

Chapter 2. Monopolistic activity

Article 8. Types of monopolistic activity

Monopolistic activity, restricted by this Law shall include:

1) anticompetitive agreements of market entities;

2) anticompetitive coordinated actions of market entities;

3) abuse the dominant or monopolistic position.

Article 9. Types of anticompetitive agreements and coordinated actions

1. Anticompetitive agreements or coordinated actions between the market entities, being the competitors or potential competitor in the same goods market, shall be horizontal.

2. Anticompetitive agreements between noncompeting market entities, one of which purchases the good or being its potential purchaser, and another provides the good or being its potential seller (supplier) shall be vertical.

Article 10. Anticompetitive agreements

1. Horizontal agreements between the market entities shall be prohibited, which shall encroach on legitimate rights of consumers and (or) lead or may lead to:

1) formation or support of prices (tariffs), discounts, allowances (supplemental payments), extra charges;

2) increase, reduction or support of prices in the biddings;

3) division of goods market on the territorial principle, volume of sales or purchase of goods, assortment of realized goods or composition of sellers or buyers (customers);

4) reduction or termination of production of goods;

5) refusal from conclusion of agreement with certain sellers or buyers (customers).

2. Direct agreements between the market entities shall be prohibited, if:

1) the agreements lead or may lead to formation of prices of resale of goods, except of the cases, when the seller establishes the ceiling price of resale of goods to the buyer ;

2) an obligation of the buyer not to sell the good of market entity, which being the competitor of seller is provided by agreement. Such prohibition shall not be distributed on the agreements on organization by the buyer of realization of goods under the trademark or other means of identification of the seller or producer.

3. Anticompetitive agreement between the market entities, which lead or may lead to the restriction of competition, achieved in any form shall be prohibited and recognized as invalid in whole or in part according to the procedure, established by the legislation of the Republic of Kazakhstan, as well as concerning:

1) establishment or support of discriminate conditions to the equal ranking agreements with other market entities, as well as establishment of settled terms of purchasing and (or) realization of goods;

2) distortion of results of biddings, auctions and competitions in the result of violation of established procedure of its conducting, as well as by division on lots;

3) unwarranted restrictions or termination of realization of goods;

4) access restriction to the goods market or elimination from its other market entities as sellers (suppliers) of defined goods or their buyers;

5) conclusion of agreements upon condition of incurrance of additional liabilities by contractors, which in its content or according to traditional business practice does not relate the subject of these agreements (unreasonable demands transfer of financial means and other property, property or non-property rights).

Prohibitions, established by this paragraph shall not be distributed on vertical agreements, being the public-private partnership agreements, complex entrepreneurial licensing (franchising) or combined share of market entity on goods market does not exceed twenty percent.

4. Coordination of economic activity of market entities, being able to adduce, adducing or adduced to the consequences listed in paragraphs 1-3 of this Article shall be prohibited.

5. Provision of this Article shall be distributed to the agreements between the market entities, including in the same group of persons, if the direct or indirect control is established by one of such market entities in relation of other market entity, as well as such market entities shall be under direct or indirect control of one person.

6. Requirements of this Article shall not be distributed on agreements on exercise of exclusive rights on the results of intellectual activity and equated to them the means of individualization of legal entity, means of individualization of production, works or services.

7. Agreements, provided by this Article, except of the specified in paragraph 2 of this Article shall be recognized as allowable, if they do not impose restrictions on the market entities, not necessary for achievement of the objectives of these agreements, and do not offer an opportunity for elimination of competition on the relevant goods market, and if the market entities shall prove that such agreements have or may have by their results:

1) assistance to the improvement of production (realization) of goods or encouragement of technological (economical) progress or competitive growth of goods of production of sides on the world goods market;

2) reception of privileges (benefits) by the consumers of proportionate parts of the benefits, which are acquired by the relevant persons from committing such actions.

Footnote. Article 10 is in the wording of the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 11. Anticompetitive coordinated actions of the market entities

1. Coordinated actions of market entities, directed to the restriction of competition and (or) impairment of the legal rights of consumers shall be prohibited, as well as concerning:

- 1) formation and (or) support of prices or other conditions of acquisition or realization of goods;
- 2) unwarranted restriction of production or realization of goods;
- 3) unwarranted refusal from conclusion of agreements with certain sellers or buyers
- 4) application of discriminate conditions to the equal ranking agreements with other entities.

2. Actions of market entities, specified in paragraph 1 of this Article, may be recognized as coordinated, if they satisfy in cases of accumulation to the following conditions:

- 1) parallel actions of market entities, committed during three months and in the results of which each of the market entities got a benefit, which was not supposed as a result of the lack of coordinated action;
- 2) actions of market entities previously known to each of them;
- 3) actions of each specified market entities were not the result of circumstances, equally affecting to these market entities.

3. Actions of market entities, specified in paragraph 1 of this Article shall be recognized as coordinated independent from existence of agreement in writing.

4. Coordinated actions shall be allowed, if they are committed by the market entities including in the same group of persons, or the combined share of which does not exceed fifteen percent on the goods market, do not encroach on legitimate rights of the consumers and directed to:

- 1) process improvement by adoption of advanced technologies;
- 2) development of small and medium enterprise;
- 3) development and application of the regulatory documents on standardization.

Footnote. Article 11 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 12. Dominant or monopolistic position

1. Position of the market entity or several market entities on the relevant goods market, giving to the market entity or several market entities the possibility to control the relevant goods market, as well as exercise significant influence on the general conditions of commodity circulation shall be recognized as the dominant or monopolistic position.

1-1. A dominant position of the market entity shall be established in accordance with the Estimation procedure of competitive situation, approved by the Eurasian economic commission, on the basis of analysis of the following circumstances:

1) share of the market entity and its correlation with the shares of competitors and buyers;

2) possibility of market entity to determine the price level of goods in unilateral procedure and exercise a decisive influence on the general conditions of realization of goods on the relevant goods market;

3) existence of economic, technological, administrative and other restrictions for the access to the goods market;

4) period of existence of possibility of market entity to exercise a decisive influence on the general conditions of commodity circulation on the goods market.

2. Position of the market entity, share of which is thirty-five percent or more shall be recognized as a dominant.

3. Each of the several market entities shall be recognized as a dominant, if:

1) the combined share of no more than three market entities, to which the most of the shares on the relevant goods market belong is fifty or more percent.

2) the combined share of no more than four market entities, to which the most of the shares on the relevant goods market belong is seventy or more percent.

4. Position of financial organizations shall be recognized as a dominant, if:

1) the combined share of no more than two financial organizations, to which the most of the shares on the market of financial services belong is fifty or more percent.

2) the combined share of no more than three financial organizations, to which the most of the shares on the market of financial services belong is seventy or more percent.

5. Position of market entity, the share of which not exceed fifteen percent on the relevant goods market, as well as on the market of financial services, shall not be recognized as a dominant in accordance with paragraphs 3 and 4 of this Article.

6. Position of natural monopoly entities, the state monopoly, as well as the market entities, occupying one hundred percent share of dominance on the relevant market shall be recognized as a monopolistic.

Footnote. Article 12 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 13. Abuse of dominant or monopolistic position

Action or omission of the market entity, holding a dominant or monopolistic position, which led or lead to the access restriction on the relevant market,

non-admission, restriction and elimination of competition and (or) encroach on legitimate rights of consumers, other persons shall be prohibited, as well as such actions as:

- 1) formation, support of monopoly high (low) or monopsony low prices;
- 2) application of various prices or various conditions to equal ranking agreements with market entities or consumers without objectively justified reasons;
- 3) establishment of restrictions on resale of goods purchased from him (her) on a territorial basis, a set of buyers, purchase conditions, as well as on quantity, price;
- 4) conditioning or imposition of conclusion of agreement by adoption of additional responsibilities by the market entity or the consumer, which on their content or according to traditional business practice does not relate the subject of these agreements;
- 5) unjustified refusal from conclusion of agreements and realization of goods with the individual buyers upon existence of possibility of production or realization the relevant goods or evasion, expressed in no presentation of response to conclude such agreement in a period exceeding thirty calendar days;
- 6) conditioning of goods delivery by acceptance of restrictions upon purchase of goods, produced or realized by the competitors;
- 7) unjustified drop in production and (or) delivery or termination of production and (or) delivery of goods, on which there is demand or customer orders, upon existence of possibility of production or delivery;
- 8) withdrawal of goods from circulation, if the result of such withdrawal is increase the price of goods;
- 9) imposition to the contractor the economically or technologically unjustified conditions of agreement, not related to the subject of agreement;
- 10) creation of access delay to the goods market or exit of other market entities from the goods market;
- 11) economically, technologically or otherwise unwarranted formation of different prices (tariffs) for one and the same good, creation of discriminatory conditions.

Footnote. Article 13 is in the wording of the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 14. Monopolistically high and low price of goods

1. Monopolistically high price of goods shall be the price, established by the market entity, holding a dominant or monopolistic position, if:

- 1) this price maximally exceeds the highest price, which the market entity establishes on the same goods market in a competitive conditions exceeding the price

on the comparable goods market, which was formed in a competitive conditions, not including in the same group of persons with the market entity, holding a dominant position,;

2) this price exceeds the amount of necessary expenses and profits for production and realization of such goods.

2. Under comparable goods market shall be regarded other goods market, comparable on volume of distributed goods, composition of buyers and sellers (suppliers) of goods, determined on the basis of the acquisition or sale of goods, and access conditions on the goods market.

In case, if it is impossible to compare the price on the same goods market, a comparison shall be made with the price of goods on a comparable goods market, as well as beyond of the Republic of Kazakhstan.

In case, if it is impossible to determine the price, settled in the competitive conditions on comparable goods market or comparable goods market, as well as beyond the Republic of Kazakhstan, the analysis of expenses and profits of the market entity shall be carried out and the reasonable price of goods shall be determined.

3. The price of goods, established to the market entity in accordance the legislative acts of the Republic of Kazakhstan shall not be recognized as a monopoly high.

4. The price, established by the market entity, holding a dominant or monopolistic position shall be monopoly low price of goods, if:

1) this price is lower than the price, which the market entity who is not included to the same group of persons with the market entity who hold a dominant position, establishes on the same goods market;

2) this price is lower the price of actual expenses on production and realization of such goods.

5. The price of goods shall not be recognized as a monopoly low, if it is not conform at least one of the criterions, specified in paragraph 4 of this Article. The price of goods, established to the market entity in accordance with the legislative acts of the Republic of Kazakhstan shall not be recognized as a monopoly low.

Footnote. Article 14 as amended by the Laws of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication); by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Article 15. Monopsony position and monopsony low price

1. A position of market entity, holding a dominant or monopolistic position as a buyer, share of which is seventy percent or more, shall be recognized as the monopsony position.

2. The price of goods, on which the market entity, holding the monopsony position purchases the goods shall be a monopsony low price, if:

1) this price allows to the market entity, holding the monopsony position, to earn an additional income by reduction in expenditure on production and (or) realization at the expense of the market entity, realizing the goods to him (her);

2) this price is lower than the amount, necessary to the market entity, realizing the goods, expenses on production and realization of such goods and profit.

3. The price of goods shall not be recognized as a monopsony low, if it does not correspond at least one of the specified criteria, specified in paragraph 2 of this Article.

Chapter 3. Unfair competition

Article 16. Unfair competition

1. Unfair competition shall be any actions in competition, directed to achievement or provision of undue privileges, as well as violating the legal rights of consumers. Unfair competition shall be prohibited.

2. The following actions shall be related to the unfair competition:

1) misuse of trademark, packing;

2) misuse of trademark of goods of other producer;

3) copying of product appearance;

4) discredit of the market entity;

5) misleading, unfair and inaccurate advertising;

6) realization (acquisition) of goods with mandative assortment;

7) call to the boycott of the seller (supplier);

8) call to the discrimination of the buyer (supplier);

9) call of the market entity to the dissolution of a treaty with a competitor;

10) bribery an employee of the seller (supplier);

11) bribery an employee of the buyer;

12) unlawful use of information, that is a commercial secret;

13) realization of goods with delivery of unreliable information to the consumer in relation of the character, method and source of production, consumer performances, quality and quantity of goods and (or) its producers;

14) incorrect comparison of produced and (or) realized goods by the market entity with the goods, produced and (or) realized by other market entities.

Footnote. Article 16 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 17. Misuse of trademark, packing

Misuse of trademark, packing shall be unlawful use of another trademark, service mark, commercial name, appellations of origin or similar designations for similar goods or unlicensed use of rightholder or authorized to that person the names of literary, artistic works, periodicals or use of packing in the form, which may mislead the consumer in relation of character, method and source of production, consumer performances, quality and quantity of goods and in relation of its producers;

Article 18. Misuse of trademark of another producer

Misuse of trademark of another producer shall be commercialization of the goods of another producer under its designation by change or withdrawal of designation of producer without permission of right holder or the authorized to that person.

Article 19. Copying of product appearance

1. Copying of product appearance shall be reproduction of product appearance of another market entity and commercialization, which may mislead the consumer in relation of the producer of goods.

2. Copying of product appearance or its parts shall not be recognized as unlawful, if such copying is exclusively conditional to its functional use.

Article 20. Discredit of the market entity

Discredit of the market entity shall be distribution in any form of misleading, inaccurate information, linked with activity of market entity.

Article 21. Misleading, unfair and inaccurate advertising

Features of unfair, inaccurate and misleading advertising shall be established in accordance with the Laws of the Republic of Kazakhstan.

Article 22. Realization (acquisition) of goods with mandatory assortment

Realization (acquisition) of goods with mandatory assortment shall be any actions of seller (supplier) or buyer on establishment of additional requirements or conditions upon realization (acquisition) of goods, which derogate from rights of seller (supplier),

consumer and which in its content according to traditional business practice does not relate the subject of transaction.

Footnote. Article 22 is in the wording of the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 23. Call to the boycott of the seller (supplier)

Call to the boycott of the seller (supplier) or its goods shall be the actions, organized by the competitor immediately or through the intermediary, and directed to the refusal of the buyer from establishment of contractual relations with the seller (supplier) of acquisition of its goods.

Article 24. Call to the discrimination of the buyer (supplier)

Call to the discrimination of the buyer (supplier) shall be the actions of the competitor of buyer (supplier), directed to coercion of the supplier (buyer) immediately or through the intermediary to refusal from conclusion of agreement or application of discriminating conditions to other buyers (suppliers) on equal ranking agreements.

Article 25. Call to the dissolution of a treaty with a competitor

Call to the dissolution of a treaty with a competitor shall be the actions of the market entity, directed to unduly non-performance or performance of contractual obligations of other market entity - contractual party with a competitor by provision or proposal of material remuneration, other privileges or unwarranted obstruction to the market entity in carrying out by them its activity immediately or through the intermediary.

Article 26. Bribery an employee of the seller (supplier)

Bribery an employee of the seller (supplier) shall be provision to him (her) the property or non-property benefits by the competitor of buyer immediately or through the intermediary for improper performance or non-performance of official duties by the employee of seller (supplier), that lead or may lead to get the definite privileges before the buyer and (or) losses of buyer.

Article 27. Bribery an employee of the buyer

Bribery an employee shall be provision to him (her) the property or non-property benefits by the competitor of seller (supplier) immediately or through the intermediary

for improper performance or non-performance of official duties by the employee of buyer, that lead or may lead to get the definite privileges before the seller (supplier) and (or) losses of seller (supplier).

Article 28. Unlawful use of information that is a commercial secret

Unlawful use of information, that is a commercial secret shall be the use of information without permission of rightholder upon carrying out of entrepreneurial activity in accordance with the legislation of the Republic of Kazakhstan.

SECTION 3. THE STATE REGULATION IN THE SCOPE OF COMPETITION

Chapter 4. The participation of the state in the entrepreneurial activity

Article 29. Principles of participation of the state in the entrepreneurial activity

Principles of participation of the state in the entrepreneurial activity shall be:

- 1) legality;
- 2) reasonableness;
- 3) restriction;
- 4) non-competitiveness.

Article 30. Participation of the state in the entrepreneurial activity

Participation of the state in the entrepreneurial activity shall be carried out by:

- 1) creation of the state enterprises;
- 2) participation of the legal entities in the charter capitals.

Article 31. Grounds of participation of the state in the entrepreneurial activity

1. The state shall participate in the entrepreneurial activity in order of solution the social and economic objectives, determined by the needs of society and the state in the following cases:

- 1) absence of other possibility of national security protection, national defense capability or protection of interests of society;
- 2) use of strategic objectives, being in the state-owned property;
- 3) existence of social need in production of goods in the scopes of social production, in which the competition is absence or undeveloped competition.

2. Creation of the state enterprises, legal entities, more than fifty percent of shares (shares) which belong to the state, and persons affiliated with them, that shall carry out its activity in the territory of the Republic of Kazakhstan, except of the cases, when

such creation is expressly provided by the Laws of the Republic of Kazakhstan shall be carried out with the advance consent of the anti-monopoly body.

3. In case, provided by paragraph 2 of this Article, the body, making decision on creation the state enterprise, legal entity, more than fifty percent of shares (shares) which belong to the state, and persons affiliated with them, that shall carry out its activity in the territory of the Republic of Kazakhstan shall represent an application in the anti-monopoly body on such creation with presentation of supporting materials on forms, established by the anti-monopoly body.

Antimonopoly body shall be obliged to inspect the goods markets during sixty calendar days from the moment of reception an application, on which is supposed to create the state enterprises, legal entities, more than fifty percent of shares (share of participation in a chapter capital) which belong to the state, and persons affiliated with them, to prepare conclusion on level of development of competition on these goods markets, as well as on term of presence of the state enterprise, legal entity, more than fifty percent of shares (share of participation in a chapter capital) which belong to the state, and persons affiliated with them on this goods market and direct to the person, presented an application, the reasoned decision.

Anti-monopoly body shall have a right to request additional information, necessary for making decision during consideration of application. The time period for consideration of an application shall be suspended for the period of delivery of additional information, on which the anti-monopoly body shall be obliged to inform the person, filed an application.

4. Anti-monopoly body shall refuse in issuance of consent to creation the state enterprise, legal entity, more than fifty percent of shares (share) which belong to the state, and persons affiliated with them, which will carry out its activity in the territory of the Republic of Kazakhstan, if such creation leads to the restriction of competition.

5. Decision of anti-monopoly body on consent to creation of the state enterprise, legal entity, more than fifty percent of shares (share) which belong to the state, and persons affiliated with them, which will carry out its activity in the territory of the Republic of Kazakhstan, may be conditional by the fulfillment of specified requirements and obligations, which eliminate or mitigate a negative effect of such creation on competition by the person, filed an application.

6. In case of creation of the state enterprises, legal entity, more than fifty percent of shares (share) which belong to the state, and persons affiliated with them, which will carry out its activity in the territory of the Republic of Kazakhstan without advance consent of anti-monopoly body, the anti-monopoly body shall have a right to appeal the specified actions in a judicial procedure.

7. Requirements of paragraphs 2-6 of this Article shall be distributed only on the cases, provided by subparagraph 3) of paragraph 1 of this Article.

Footnote. Article 31 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 32. The state monopoly

1. The state shall have a right to restrain competition in those scopes, in which realization of goods on the competitive market may exert negative influence on condition of the constitutional order, national security, protection of social order, rights and freedom of person, health of population by securing by the Law the exclusive right of the state on production and (or) sale, purchase of goods or use them.

2. Realization of the exclusive right shall be carried out by creation of the state monopoly by the entity. The entity of the state monopoly may be only the state enterprise, created by the Government of the Republic of Kazakhstan or local executive bodies of regions, cities of republican significance, the capital by the decision of the Government of the Republic of Kazakhstan.

2-1. The rules of price formation on goods, produced and sold by the entity of the state monopoly shall be approved by the anti-monopoly body.

3. An entity of the state monopoly shall be prohibited to:

1) make goods, not related to the scope of the state monopoly, except of the activity , technologically linked with production of goods;

2) hold shares (shares of participation in the capital charter), as well as otherwise participate in the activity of legal entities;

3) transfer the rights, linked with the state monopoly;

4) establish prices on produced or realized by them goods, differ from the prices, established by the Government of the Republic of Kazakhstan.

The right to carry out other types of activity, technologically similar to the main, shall be granted to the entity of the state monopoly by the decision of the Government of the Republic of Kazakhstan upon natural disasters, epidemic, epizootic, as well as upon existence of restrictions, preventing the further extension of the main activity.

4. The state regulation of activity of the entities of the state monopoly shall be carried out in accordance with the Laws of the Republic of Kazakhstan.

4-1. Compliance control of restrictions, established by paragraph 3 of this Article by the entities of the state monopoly, shall be carried out by the anti-monopoly body in accordance with this Law.

5. Upon introduction of the state monopoly shall be observed the following conditions:

1) market entities shall be informed on this decision not later than six months up to its introduction into effect;

2) market entities, engaged in manufacturing, sale or using these goods, shall have a right to carry out the realization of these goods, except of settlement of transactions, the period for performance which exceeds the previously mentioned period, during six months after introduction into effect of the state monopoly;

3) losses, caused in the result of introduction of the state monopoly shall be reimbursed in accordance with the civil legislation of the Republic of Kazakhstan.

6. The provision of this Article shall not be distributed on the activity of united pension savings fund.

Footnote. Article 32 as amended by the Laws of the Republic of Kazakhstan dated 15.07.2011 No. 461-IV (shall be enforced from 30.01.2012); dated 10.07.2012 No. 34-V (shall be enforced from the date of its official publication); dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication) ; dated 21.06.2013 No. 106-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Chapter 5. Anticompetitive actions, agreements of the state, local executive bodies

Footnote. Title of chapter 5 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 33. Anticompetitive actions, agreements of the state, local executive bodies

1. Anticompetitive actions, agreements of the state, local executive bodies, expressed in adoption of acts or decisions, which led or may lead to restriction or elimination of competition or impairment of legal rights of the consumer, except of the cases, provided by the Laws of the Republic of Kazakhstan in order of protection of the constitutional system, protection of social order, rights and freedom of person, health and morality of population shall be prohibited and recognized as invalid in whole or in part according to the procedure, established by the legislation of the Republic of Kazakhstan.

2. Anticompetitive actions of the state, local executive bodies shall be recognized:

1) introduction of restrictions in relation of creation of the market entity in any scope of activity;

2) unwarranted obstruction to carrying out of activity of the market entity;

3) establishment of prohibitions or introduction of restrictions in relation of free transfer of goods, other restrictions of rights of the market entity on realization of goods;

4) instructions on priority delivery of goods to the market entity for the definite buyers category or priority acquisition of goods at the definite sellers (suppliers) or conclusion of agreements in a priority procedure;

5) establishment of restrictions of choose of the market entities, which provides such goods for the purchasers of goods;

6) actions, directed to increase, reduction or support of prices;

7) actions, directed to division of goods market on territorial principle, volume of sales or purchase of goods, assortment of realized goods or in composition of sellers (suppliers) or buyers;

8) access restriction on the goods market, exit from the goods market or elimination of market entities from it;

9) provision of benefits or other privileges to the separate market entities, which put them in a privileged position relative to the competitors or providing of adverse and discriminatory conditions of activity compared to competitors;

10) direct or indirect coercion of market entities to the priority conclusion of agreements, to the priority delivery of goods to the definite circle of customers or priority acquisition of goods at the definite sellers (suppliers).

3. Agreements between the state, local executive bodies, bodies of local self-government or between them and the market entities shall be prohibited, if such agreements lead or may lead to non-admission, restriction or elimination of competition, except of the cases, provided by the Laws of the Republic of Kazakhstan in order of protection of the constitutional system, protection of social order, rights and freedom of person, health and morality of population, as well as by the international agreements, ratified by the Republic of Kazakhstan.

Footnote. Article 33 is in the wording of the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 34. The state aid

Footnote. Article 34 is excluded by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 35. The procedure of provision of the state aid

Footnote. Article 35 is excluded by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 36. Consequences of violation of requirements of this Law on provision and use of the state aid

Footnote. Article 35 is excluded by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 6. Anti-monopoly body

Footnote. Title of chapter 6 is in the wording of the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Article 37. The system of anti-monopoly body

1. The unified system of anti-monopoly body is the central state body and territorial bodies subordinated to it.

2. Territorial bodies shall carry out its activity within powers, established by the legislation of the Republic of Kazakhstan and provision, approved by the central state body.

Article 38. Objectives of the antimonopoly body

The objectives of the antimonopoly body shall be:

- 1) promotion of fair competition;
- 2) prevention, revelation and investigation, suppression of law violation of antimonopoly legislation of the Republic of Kazakhstan;
- 3) control of economic concentration;
- 4) demonopolization of the market entities, restrained competition.

Article 39. The competence of the antimonopoly body

An antimonopoly entity shall:

1) realize the state policy in the field of protection of competition and restriction of the monopolistic activity;

1-1) develop suggestions on formation of the state policy in the field of protection of competition and restrictions of monopolistic activity;

2) carry out the cross-sector coordination of the state bodies and other organizations in the scope of protection of competition and restriction of monopolistic activity;

3) carry out an international cooperation on issues of the competence of antimonopoly body;

4) carry out the state control of observance of the antimonopoly legislation of the Republic of Kazakhstan;

5) repress the acts, actions (omissions) of the state bodies, directed to restriction and (or) elimination of competition;

6) carry out control of economic concentration;

7) prevent and eliminate the abuse of a dominant or monopolistic position on the relevant goods market, except of the violations, provided by the legislation of the Republic of Kazakhstan on the natural monopolies and regulated markets;

8) prevent and repress the anticompetitive agreements and coordinated actions of the market entities, unfair competition;

9) develop the rules of inclusion and exclusion of the market entity from the register;

10) develop and coordinate the regulatory legal acts in the field of development of competition, restriction of monopolistic activity and functioning of goods markets;

10-1) carry out a propaganda of fair competition;

11) carry out an analysis and assessment of condition of competitive environment on the goods markets;

12) carry out an analysis and monitoring of activity of the market entities, holding a dominant and monopolistic position on the relevant goods market;

13) carry out formation and maintenance of register;

14) approve the methods on carrying-out of an analysis and assessment of condition of competitive environment on the goods market with determination of criteria of exchangeability of goods, availability of acquisition, as well as borders of goods market, in relation of financial organizations – on coordination of the National Bank of the Republic of Kazakhstan;

15) reveal monopoly high (low), monopsony low price, established by the market entity, holding a dominant or monopolistic position, except for the market entities, selling goods on regulated markets;

16) approve the methods on revelation of monopoly high (low) and monopsony low prices;

17) conduct the investigations on facts of violation of the antimonopoly legislation of the Republic of Kazakhstan by the market entities and the state body according to the procedure, established by this Law;

18) request and receive information, as well as statements, that are commercial and other legally protected secret, necessary for exercise of powers, provided by this Law, according to the procedure, established by the Laws of the Republic of Kazakhstan, from the state bodies, as well as an authorized body in the field of the state statistics, tax and customs bodies, market entities, as well as civil servants and other individuals and legal entities;

19) render the binding orders to the market entities on:

elimination of violations of this Law and their consequences;

restitution;

dissolution or alterations of the agreements, contradicted to this Law;

conclusion of agreement with other market entity in case, if the violation is unwarranted refusal or evasion from conclusion of agreement with the defined sellers (suppliers) or buyers;

20) introduce the binding orders to the state bodies on refusal or amendment of acts, adopted by them, on termination of violations, as well as dissolution or alterations of agreements, concluded by them, contradicted to this Law;

21) consider the cases on administrative infractions and impose administrative penalties according to the procedure, established by the Code of the Republic of Kazakhstan on administrative infractions;

22) *Is excluded by the Law of the Republic of Kazakhstan dated 13.01.2014 No. 159-V (shall be enforced upon expiry of ten calendar days after its first official publication);*

23) *Is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);*

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Subparagraph 24) is provided to be in the wording of the Law of the Republic of Kazakhstan dated 03.07.2014 No. 227 – V (shall be enforced from 01.01.2015).

24) direct the materials for resolution of the issue on initiation of criminal case on elements of crime, linked with the violation of the anti-monopoly legislation of the Republic of Kazakhstan to the law enforcement bodies;

25) *Is excluded by the Law of the Republic of Kazakhstan dated 13.01.2014 No. 159-V (shall be enforced upon expiry of ten calendar days after its first official publication);*

26) direct an annual report to the Presidential Administration of the Republic of Kazakhstan on competitive situation on the separate goods markets and measures, adopted on antitrust enforcement annually not later than 1 June;

26-1) provide disclosure, conducting by the competition policy, as well as quarterly not later than the fifteenth day of the month following the reporting month, place the

information on activity of antimonopoly body in the mass media and on web-sites of antimonopoly body;

26-2) carry out an expertize of price on the goods, produced and realized by the natural monopoly entity;

27) carry out other powers, provided by this Law, other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 39 as amended by the Laws of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV; dated 05.07.2011 № 452-IV (shall be enforced from 13.10.2011); dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.01.2014 № 159-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Article 40. Board of directors of antimonopoly body

Footnote, Article 40 is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Article 40-1. Formation and maintenance of register

1. Approval of register and introduction of amendments in it shall be carried out by the decision of the antimonopoly body.

2. A register shall be approved in the form, determined by the antimonopoly entity.

3. Extract from the register shall be directed to the market entity, holding a dominant or monopolistic position on this market, during ten business days from the moment of making decision by the Boards of directors in case of making decision by the Boards of directors the antimonopoly body on inclusion (exclusion) of the market entities to the register.

4. Group of persons shall be included in the register as a unified market entity, and upon that shall be specified all the individuals and (or) legal entities, including in the group of persons, carrying out an activity on the relevant goods market.

5. Inclusion and exclusion of the market entities from the register shall be carried out in accordance with the rules, approved by the antimonopoly body.

Footnote. Chapter 6 is supplemented by Article 40-1 in accordance with the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry

of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 41. Powers of Board of directors of antimonopoly body

Footnote. Article 41 is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Article 42. The rights of officers of antimonopoly body

Officers of antimonopoly body upon execution of official duties, as well as upon consideration of applications on violation of antimonopoly legislation of the Republic of Kazakhstan, case investigation on violation of antimonopoly legislation, carrying out of control of economic concentration and determination of condition of level of competition in accordance with vested on it powers upon presentation by them the service certificates and decisions of the antimonopoly body on carrying out an investigation of observance of antimonopoly legislation of the Republic of Kazakhstan shall have a right to:

1) gain an unobstructed access to the state bodies and market entities with observance of requirements of the legislation of the Republic of Kazakhstan;

2) request and receive information from the state bodies, market entities, as well as civil servants and other individuals and legal entities, as well as written and (or) oral explanations on the facts of committed violations of antimonopoly legislation of the Republic of Kazakhstan.

Footnote. Article 42 as amended by the Laws of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 43. Obligations of the officers of antimonopoly body on observance of commercial, official and other legally protected secret

1. Information, that is commercial, official, other legally protected secret, received by the antimonopoly body upon carrying out of its powers, shall not subject to disclosure, except of the cases, established by the Laws of the Republic of Kazakhstan.

2. Officers of antimonopoly body shall bear responsibility, established by the Laws of the Republic of Kazakhstan for disclosure of information that is commercial, official, other legally protected secret.

3. Damage, caused to the individuals or legal entity in the result of disclosure of information that is commercial, official, other legally protected secret, by the antimonopoly body or its civil servants, shall subject to compensation in accordance with the civil legislation of the Republic of Kazakhstan.

Article 43-1. Competence of the state body, carrying out the cross sector and interregional coordination of development of basic directions of the state social and economic policy

Footnote. Article 43-1 is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Chapter 7. Interaction of antimonopoly body with regulatory, law enforcement bodies of the Republic of Kazakhstan and antimonopoly body of other states

Footnote. Title of chapter 7 is in the wording of the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 44. Interaction of antimonopoly and regulatory bodies

Footnote. Article 44 is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Article 44-1. Interaction of the antimonopoly body with the antimonopoly bodies of other states

1. The antimonopoly bodies of Custom union countries shall carry out interaction within the frame of United economic area, as well as by providing of notifications, requests on delivery of information, conducting of consultations, information sharing on investigations.

2. An antimonopoly body shall have a right to direct requests to the antimonopoly bodies of other states and provide information on their requests within the frame of participation in the international organizations.

Footnote. Chapter 7 is supplemented by Article 44-1 in accordance with the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 45. Interaction of antimonopoly and law enforcement bodies

1. An antimonopoly body shall carry out interaction with the law enforcement bodies of the Republic of Kazakhstan within its powers in the following forms:

- 1) inform the law enforcement bodies on elicited facts of antimonopoly infractions;
- 2) provide an analytic information and monitoring data on competitive situation on the goods markets;
- 3) conduct researches, expertizes and counsel on issues of antimonopoly legislation of the Republic of Kazakhstan on requests of law enforcement bodies within its competence;
- 4) direct the employees as their experts for participation in the procedural actions and measures on infringement investigation of antimonopoly legislation of the Republic of Kazakhstan on regulations and requests of law enforcement bodies, their territorial subdivisions.

2. The Law enforcement bodies of the Republic of Kazakhstan shall carry out interaction with the antimonopoly bodies within its powers in the following forms:

- 1) inform an antimonopoly body on revealed infractions in the scope of antimonopoly legislation of the Republic of Kazakhstan;
- 2) on requests and applications of antimonopoly body and its territorial bodies shall :

direct the officers for carrying out of cooperative activities on infringement investigation of antimonopoly legislation of the Republic of Kazakhstan, as well as for suppression of illegal actions, preventing to execution of official duties by the employees of antimonopoly body;

assume measures on location of violators of antimonopoly legislation of the Republic of Kazakhstan and their delivery to the antimonopoly body for imposition of administrative sanctions according to the written requests of antimonopoly body according to the procedure, provided by the Code of the Republic of Kazakhstan on administrative infractions;

make decisions on initiation of criminal cases on represented materials with features of criminally liable anticompetitive actions, on which an antimonopoly body informs according to the procedure, provided by the criminal procedure legislation of the Republic of Kazakhstan;

render the practical assistance to the antimonopoly body in discovery and preservation of evidences of violations of antimonopoly legislation of the Republic of Kazakhstan.

SECTION 4. PROTECTION OF COMPETITION

Chapter 8. Prevention of violations of antimonopoly legislation of the Republic of Kazakhstan

46. Prevention of violations of antimonopoly legislation of the Republic of Kazakhstan

In order of prevention of violations of antimonopoly legislation of the Republic of Kazakhstan, an antimonopoly body shall carry out:

- 1) analysis of competitive situation on the goods markets;
- 2) control of economic concentration;
- 3) monitoring of activity of the market entities, holding a dominant or monopolistic position.

Article 47. Analysis of competitive situation on the goods markets

1. The objectives of carrying-out of an analysis of good markets shall be detection of level of competition, revelation of market entities, holding a dominant or monopolistic position for development of set of measures, directed to protection and development of competition, prevention restriction of monopolistic activity.

2. An analysis of goods market shall be carried out on the basis of statistical information and other reporting forms, represented by the state bodies, market entities and their associations, as well as on the basis of information, provided in accordance with paragraph 10 of this Article.

3. Borders of goods market shall determine the territory, on which the consumers acquire the goods or substitution goods, if its acquisition is inappropriate beyond this territory on economic, process and other reasons.

4. Borders of goods market shall be determined in recognition of availability of acquisition of goods on the following criterions:

- 1) possibility of acquisition of goods on this territory;
- 2) validity and justification of transportation expenses relative to the costs of goods ;
- 3) preservation of quality, reliability and other consumer product features upon its transportation;
- 4) absence of restrictions (prohibitions) of purchase and sale, imports and exports of goods;
- 5) existence of equal competitive positions in the territory, within which realization , delivery of goods are carried out.

5. Determination of borders of relevant goods markets shall be carried out by the antimonopoly body;

- 1) upon analysis of goods markets;
- 2) upon formation and maintenance of register;
- 3) in case of motivated application of individuals, market entity, and (or) associations of legal entities, as well as the state body;

4) upon revelation of facts of violation of antimonopoly legislation of the Republic of Kazakhstan.

6. The volume of goods market shall be determined as the amount of realization of goods or substitution goods by the market entities within the market borders in the natural indices in recognition of the volume of imports and exports of goods or substitution goods.

The volume, realized on the goods market shall be included in the volume of realization in case of use of the part of its production by the market entity for its own needs.

7. The share of market entity on the relevant goods market shall be determined as volume rate of realization of goods or substitution goods by the market entity to the total volume of the relevant goods market within the market boundaries.

8. Determination of share of market entities is possible upon availability of information from the entities, the share of amount of delivery which occupies more than eighty-five percent in the total volume.

9. The methods of determination of criteria of exchangeability of goods and accessibility of their acquisition, borders of goods market, its analysis and state estimation of competitive environment shall be approved by the antimonopoly body in recognition of specificity of goods and legislation of the Republic of Kazakhstan, regulated the relevant branch of economy, in coordination with the state body, carrying out management of relevant scope of the state management and for financial organizations – in coordination with the National Bank of the Republic of Kazakhstan.

10. The market entities, its associations and heads, state bodies, as well as an authorized body in the field of the state statistics, public revenue bodies, their civil servants shall be obliged to provide the reliable documents, written and oral explanations and other information, as well as including commercial secret, necessary for exercise of powers, provided by this Law by the antimonopoly body at the request of the antimonopoly body.

Footnote. Article 47 as amended by the Laws of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV; dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication); by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 07.11.2014 No. 248-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Article 48. Monitoring of activity of the market entities, holding a dominant or monopolistic position

1. The purpose of monitoring of activity of the market entities, holding a dominant or monopolistic position on the relevant goods market shall be revelation and suppression of violations, linked with the abuse of a dominant or monopolistic position, except of the violations, provided by the legislation of the Republic of Kazakhstan on the natural monopolies and regulated markets.

2. Market entities, included in the register shall be obliged to provide to the antimonopoly body:

1) financial reporting in accordance with the legislation of the Republic of Kazakhstan on book records and financial reporting according to the results of the first half of the year in terms up to the 1 August of the following year;

2) quarterly information on sale or transfer in trust of ten percent or more of its voting shares (share of participation, stocks) – in terms up to 15 day following the reporting;

3) quarterly information on monopoly types of production, on volume of production and realization, selling prices and return level of realized monopoly goods on form, determined by the antimonopoly body, - in terms up to 15 day, following the reporting.

Article 49. The state control of economic concentration

1. In order of prevention of incurrance or strengthening of a dominant or monopolistic position and (or) restriction of competition, an antimonopoly body shall carry out the state control of economic concentration, expressed in advance obtaining of the consent of the antimonopoly body on execution of transactions (actions), specified in subparagraphs 1), 2) and 3) of paragraph 1 of Article 50 of this Law, or its notification on transactions, specified in subparagraphs 4) and 5) of paragraph 1 of Article 50 of this Law.

2. Market entities, intending to commit or committed an economic concentration, shall be applied to the antimonopoly body with application on giving a consent on economic concentration or inform an antimonopoly body on committed economic concentration according to the procedure, provided by this Law.

3. Market entities, intending to commit an economic concentration, specified in subparagraphs 4) and 5) of paragraph 1 of Article 50 of this Law, shall have a right to apply with application to the antimonopoly body for the advance obtaining of a consent according to the procedure, provided by this Law.

4. In case, if an economic concentration is conducted with application of tendering procedures (auctions, tenders, competitions), an application may be presented both before the tendering procedure, and after, but not later than thirty calendar days from the date of announcement of the winner, unless otherwise provided by the legislation of the Republic of Kazakhstan.

5. The state registration, reregistration of the market entities, as well as the rights to the immovable property in the cases, provided by subparagraphs 1) and 3) of paragraph 1 of Article 50 of this Law shall be carried out by the registering body with consent of the antimonopoly body.

6. An economic concentration, committed without the consent of the antimonopoly body, which is led to establishment or strengthening of a dominant or monopolistic position of the market entity or group of persons and (or) restriction of competition, may be found incompetent by the court at the suit of the antimonopoly body.

The state registration, reregistration of the market entity, rights to the immovable property, carried out in violation of this Article, may be recognized in a judicial procedure as illegal and canceled at the suit of the antimonopoly body.

Footnote. Article 49 is in the wording of the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 50. An economic concentration

1. An economic concentration shall be recognized:

1) reorganization of the market entity by merger or accession;

2) acquisition of voting shares (share of participation in a charter capital, stocks) of the market entity by the person (group of persons), upon that such person (group of persons) shall acquire a right to manage more than twenty five percent of the shares (share of participation in a charter capital, stocks), if before acquiring such person (group of persons) is not manage the shares (shares of participation in a charter capital, stocks) or managed twenty five percent or less of the shares (share of participation in a charter capital, stocks) of the specified market entity;

3) obtaining into ownership, possession and use, as well as in payment for (transfer) charter capital, by the market entity (group of persons) of fixed production-related assets and (or) intangible assets of other market entity, if the balance sheet value of the property, that is the subject of transaction (related transactions) exceed ten percent of the balance sheet value of fixed production-related assets and intangible assets of the market entity, alienated or transferring the property;

4) acquisition of the rights (as well as on the grounds of agreement on trust management, joint operation agreement, commission contract) by the market entity,

allowing to give binding instructions to other market entity upon carrying on an entrepreneurial activity to them or carry out functions of its executive body;

5) participation of the same individuals in the executive bodies, boards of directors, supervisory boards or other management bodies of two or more market entities upon condition of determination of conditions of carrying on their entrepreneurial activity by the specified individuals in these entities;

2. An economic concentration shall not be recognized:

1) acquisition of shares (share of participation in a charter capital, stocks) of the market entity by the financial organization, if this acquisition is carried out in order of their subsequent resale upon condition, that the specified organization shall not participate in voting in the management bodies of the market entity, as well as acquisition or obtaining into ownership of property, fixed production-related assets and (or) intangible assets of other market entity by the financial organizations in order of termination of obligation of a debtor in whole or in part, if this acquisition or reception is carried out in order of their subsequent resale upon condition, that the specified financial organizations shall not use (not operate) such property in order deriving revenue in their own purposes;

2) assignment of rehabilitation or bankruptcy manager, temporary administration (interim administrator);

3) carrying out of transactions, specified in paragraph 1 of this Article, if such transaction occurs within the same group of persons.

3. The consent of antimonopoly body to carrying out of transactions, specified in subparagraphs 1), 2) and 3) of paragraph 1 of this Article, or its notification on transactions, specified in subparagraph 4) and 5) of paragraph 1 of this Article, shall be required in the cases, if the aggregate balance value assets of reorganized market entities (groups of persons) or acquirer (groups of persons), as well as market entity, shares (shares of participation in a charter capital), stocks) with a right to vote of which is acquired, or their stocks of realization of goods for the last financial year exceeds the ten million fold amount of monthly calculation index, established to the date of submission of application (notification), or one of the person, engaging in a transaction, shall be a market entity, holding a dominant or monopolistic position on the relevant market entity.

4. The consent to the economic concentration with participation of financial organization shall be required, if the value of assets or amount of internal capital of financial organization exceeds the amounts, established by the antimonopoly body jointly with the National Bank of the Republic of Kazakhstan.

In case, if the economic concentration, specified in paragraph 1 of this Article shall be carried out by the market entity, which is both a financial organization and a market

entity, holding a dominant or monopolistic position on the relevant goods market, such market entity is governed by the regulation, provided by paragraph 3 of this Article.

5. An antimonopoly body shall have a right to establish the higher amounts of value of assets and volume of realization of goods for these markets, wherein the consent of the authorized body is necessary to carrying out transactions, specified in this Article.

6. Stocks of realization of goods in accordance with paragraph 3 of this Article shall be determined as the amount of income (earnings) from realization of goods for the last financial year, preceding to submission of application (notification), after tax deduction to the added value and excise tax.

In case, if the market entity carried out an activity less than one year, the volume of realization of goods shall be determined over a period of activity of the market entity.

7. In case of carrying out of transactions, provided by subparagraphs 1), 2) and 3) of paragraph 1 of this Article, shall be required the advance consent of the antimonopoly body.

In case of carrying out of transactions, provided by subparagraphs 4) and 5) of paragraph 1 of this Article, an antimonopoly body shall be notified no later than forty-five calendar days after the date of conclusion of transaction.

Footnote. Article 50 is in the wording of the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 07.03.2014 No. 177-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 51. Persons, filing an application on giving a consent to the economic concentration

1. In cases, provided by subparagraph 1) of paragraph 1 of Article 50 of this Law, an application shall be filed to the antimonopoly body by person, making a relevant decision, or by incorporators (participants) of the market entity.

2. An application on giving a consent to the economic concentration, specified in subparagraphs 2) and 3) of paragraph 1 of Article 50 of this Law shall be filed to the antimonopoly body by person, acquiring the voting shares (shares of participation in a charter capital, stocks), fixed production-related assets, intangible assets or relevant rights.

3. If by transaction party, specified in subparagraphs 1), 2) and 3) of paragraph 1 of Article 50 of this Law, acts the several persons, an application may be filed by one

person on behalf of other participants of transaction. A person, authorized for representation of interests of persons in the antimonopoly body, adopted a decision on commission of economic concentration, shall be specified in the application.

Footnote. Article 51 is in the wording of the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 52. Procedure of submission of application

1. An application shall be drawn up in a written form, established by the antimonopoly body, with annex of the documents and information, provided in Article 53 of this Law.

2. Information, specified in application and the documents, appended to the application, shall be authoritative and full and presented in the form of originals or original copies, certified in the established by the legislation procedure of the Republic of Kazakhstan. A person, signed an application, shall confirm the reliability and completeness of information and documents, presented in application and appended to it in written form.

3. An application and annex to it shall be presented in a sewed form and certified by the seal of person, filed an application.

An application and annex to it, presented by the individual, shall be filed in a sewed form and certified notarially by the certified signature of individual.

4. Presented documents and information shall be numbered and presented with specification of numbers of paragraphs and subparagraphs of Article 53 of this Law. Full reply shall be presented for each question of paragraph and subparagraph.

Upon impossibility to present full information to the participants of economic concentration, shall be provided evaluation or predictive information with specification, that it is evaluation or predictive, as well as shall be specified the sources of its acquisition and methods used of estimation and prediction.

5. Information, that is commercial secret, shall be presented with obligatory note "commercial secret".

6. Information and documents to the application shall be presented for the financial year, preceding the year of submission of the application, as well as for the current period since the start of the year with specification of temporary period.

In case of absence of information and documents, drawn up for the current period since the start of the year, the information and documents shall be presented for the financial year, preceding the year of submission of the application.

In case, if the market entity is existed during the term, less than the last financial year, preceding submission of the application, information and documents shall be

presented during the period from beginning of carrying out of activity of the market entity.

7. Information on production volumes, on realization of goods in the Republic of Kazakhstan, on volumes of export and import of goods of market entity (group of persons) shall be presented for the two financial years preceding the year of submission of application, for the current period since the start of the year, as well as shall be presented prediction for three years, following the current period.

In case, if the market entity is carried out an activity less than two years at the time of submission of the application, information and documents shall be presented during the beginning of carrying out of activity of the market entity.

8. Third parties shall have a right to participate in consideration of application on giving a consent to the economic concentration, if decision of antimonopoly body may essentially affect their rights, protected by this Law.

The issue of involvement to participation in consideration of application on consent to the economic concentration of third parties shall be decided by the antimonopoly body, on which a person, filed an application is notified.

Footnote. Article 52 as amended by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 53. Documentation, appended to application on giving a consent to the economic concentration

1. Documentation, necessary for presentation to the antimonopoly body an application on giving a consent to the economic concentration, provided by subparagraph 1) of paragraph 1 of Article 50 of this Law shall include:

1) draft decision of person or an authorized body on reorganization of the market entity;

2) statement of purpose of reorganization of market entity, including planning changes in types of activity or geography of their business operations;

3) approved charter and foundation agreement of the created market entity or their projects;

4) the list of information and conditions of transfer of property, transferred to the created market entity;

5) for each of the reorganized market entities, as well as for each market entity, including in the same group of persons with the reorganized market entities, shall be specified:

for individual – data of document, proving his (her) identity, information on citizenship, as well as place of residence and legal address;

the name, legal and actual address;
size of the charter capital and share of participation;
types of shares;

6) the list of members of executive body, boards of directors (supervisory board) with specification of position, being also the members of executive body, boards of directors (supervisory board) of other market entities;

7) production volume and realization of goods, export and import of goods in the Republic of Kazakhstan, produced and realized by the reorganized market entities;

8) production volume and realization, export and import of the same or substitutional goods, produced or realized by the market entities, including in the same group of persons with reorganized market entities to the Republic of Kazakhstan;

9) production forecast and realization of the same or substitutional goods in the results of settlement of this transaction.

2. The list of documents and information, necessary for submission of application on giving a consent to the economic concentration, provided by subparagraph 2) of paragraph 1 of Article 50 of this Law to the antimonopoly body:

1) an agreement or draft agreement or other document, approving the settlement of transaction;

2) on acquirer and on each market entity, including with the acquirer in the same group of persons shall be specified:

for individual – data of document, proving his (her) identity, information on citizenship, as well as place of residence and legal address;

the name, legal and actual address;
size of the charter capital and share of participation;
types of shares;

production volume and realization, export and import of goods to the Republic of Kazakhstan, analogous to the goods or substitutional goods, produced or realized by the market entity, in relation of which the actions, provided by subparagraph 2) of paragraph 1 of Article 50 of this Law are committed;

3) the list of members of executive body, boards of directors (supervisory board) with specification of position, being also the members of executive body, boards of directors (supervisory board) of other market entities;

4) production volume and realization, export and import of goods to the Republic of Kazakhstan, in relation of which the actions, provided by subparagraph 2) of paragraph 1 of Article 50 of this Law are committed;

5) production volume and realization, export and import of the same or substitutional goods, produced or realized by the market entities, being under direct

and indirect control of the market entity to the Republic of Kazakhstan, in relation of which the actions, provided by subparagraph 2) of paragraph 1 of Article 50 of this Law are committed;

6) information on rights, which the acquirer will receive after settlement of transaction in relation to the market entity and (or) its group of persons, in relation of which the actions, provided by subparagraph 2) of paragraph 1 of Article 50 of this Law are committed, as well as the quantity and offer price of shares (share of participation in a charter capital, stocks) of the market entity, that will be disposed by the acquirer after settlement of transaction, as well as the share in in percentage of the total number of shares (share of participation in a charter of capital, shares) with the voting right and their percentage share from the capital charter of the market entity;

7) production forecast and realization of the same or substitutional goods in the results of settlement of this transaction.

3. The list of documents, necessary for submission of application on giving a consent to the economic concentration, provided by subparagraph 3) of paragraph 1 of Article 50 of this Law to the antimonopoly body:

1) an agreement or draft agreement;

2) on acquirer and on each market entity, including with the acquirer in the same group of persons shall be specified:

for individual – data of document, proving his (her) identity, information on citizenship, as well as place of residence and legal address;

the name, legal and actual address;

size of the charter capital and share of participation;

types of shares;

production volume and realization, export and import of the same or substitutional goods to the Republic of Kazakhstan, which will be produced using the acquired property;

3) the list of property, that is the subject of transaction, with specification of balance value;

4) information on which goods the acquired property was used or shall be used with the indication of types of goods;

5) production forecast and realization of goods with the use of acquired property with specification of types of goods;

6) production forecast and realization of the same goods or substitutional goods in the results of settlement of this transaction.

4. Foreign legal entities, beside information, provided in accordance with this Article, shall additionally provide:

1) notarized extract from the trade register of country of origin or other equivalent document, confirming its legal status in accordance with the legislation of country of its location;

2) information on record registration of branch or representation and copy of statute on branch or representation, if the foreign legal entity has a branch or representation, registered in the Republic of Kazakhstan;

3) information with specification of types of goods, produced and (or) realized by the branch or representation in the Republic of Kazakhstan, if the foreign legal entity or market entity with foreign participation – an acquirer has a branch or representation in the Republic of Kazakhstan.

5. In case, provided by paragraph 3 of Article 49 of this Law, an application on giving a consent to the economic concentration shall be filed by the person, acquired the relevant rights with presentation of list of the documents and information, provided by Article 54-2 of this Law.

6. An antimonopoly body shall have a right to request an additional information and (or) documents at the market entity and (or) the state bodies, if their absence prevents to consideration of the application.

The term, established by the antimonopoly body for delivery of information and (or) documents shall not be less than ten calendar days.

Footnote. Article 53 is in the wording of the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 54. Terms of consideration of an application on giving a consent to the economic concentration

1. An antimonopoly body shall be obliged to check the completeness of presented materials during ten calendar days from the date of reception of application and notify a person, filed an application, on reception or on refusal in admission of application to consideration.

2. The term of consideration of application on giving a consent to the economic concentration shall not exceed fifty calendar days from the date of admission of application to consideration.

3. The term of consideration of an application shall be suspended in case of impossibility of consideration of an application before making a decision by the antimonopoly body or court on specified or linked with it other application, on which an antimonopoly body is obliged to notify a person, filed an application in a written form during three business days from the date of making such decision.

4. In the course of consideration of application, an antimonopoly body shall have a right to request an additional information and (or) documents, necessary for making decision from the market entity and (or) the state body.

5. For the period of presentation of additional information and (or) the documents, the term of consideration of an application shall be suspended, on which an antimonopoly body is obliged to notify a person, filed an application during three business days from the date of making such decision.

6. An antimonopoly body shall renew consideration of an application on giving a consent to the economic concentration after presentation of additional information and (or) documents by the market entity and (or) the state body, on which is obliged to notify a person, filed an application in a written form during three business days.

Footnote. Article 54 is in the wording of the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 54-1. Procedure of notification of the antimonopoly body on committed economic concentration

The market entitis, made transactions, provided by subparagraph 4) and 5) of paragraph 1 of Article 50 of this Law shall notify an antimonopoly body in term, established by the second part of paragraph 7 of Article 50 of this Law.

A written notification on committed economic concentration may be transferred directly to the antimonopoly body, and through the signal installation.

An antimonopoly body shall be notified by:

1) individual, who is a member of executive bodies, boards of directors, supervisory boards or other management bodies of two and more market entities, upon condition of determination of conditions of carrying on of their entrepreneurial activity by the specified individual;

2) market entity, acquiring the rights (as well as on the grounds of agreement on trust management, joint operation agreement, commission contract), allowing to give binding instructions to other market entity upon carrying on an entrepreneurial activity by them or carry out functions of its executive body.

Footnote. Charter 8 is supplemented by Article 54-1 in accordance with the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 54-2. Documentation, enclosed to the notification (application) to the antimonopoly body on committed (planned) economic concentration

1. The list of documents and information, necessary for direction (submission) of notification (application) to the antimonopoly body on committed (planned) economic concentration, provided by subparagraph 4) of paragraph 1 of Article 50 of this Law:

1) copy of agreement (draft agreement), certified (certified) by the legal entity or other document, approved the settlement (intendment to commit) of transactions (transaction);

2) on acquirer and on each market entity, including with the acquirer in the same group of persons shall be specified:

for individual – data of document, proving his (her) identity, information on citizenship, as well as place of residence and legal address;

the name, legal and actual address;

size of the charter capital and share of participation;

types of shares;

production volume and realization, export and import of goods to the Republic of Kazakhstan, analogous to the goods or substitutional goods, produced or realized by the market entity, in relation of which the actions, provided by subparagraph 4) of paragraph 1 of Article 50 of this Law are committed;

3) the list of members of executive body, boards of directors (supervisory board) with specification of position, being also the members of executive body, boards of directors (supervisory board) of other market entities;

4) production volume and realization, export and import of goods to the Republic of Kazakhstan, in relation of which the actions, provided by subparagraph 4) of paragraph 1 of Article 50 of this Law are committed;

5) production volume and realization, export and import of the same or substitutional goods, produced or realized by the market entities, being under direct and indirect control of the market entity to the Republic of Kazakhstan, in relation of which the actions, provided by subparagraph 4) of paragraph 1 of Article 50 of this Law are committed;

6) information on rights, which the acquirer will receive after settlement of transaction in relation to the market entity and (or) its group of persons, in relation of which the actions, provided by subparagraph 4) of paragraph 1 of Article 50 of this Law are committed, as well as the quantity and offer price of shares (share of participation in a charter capital, stocks) of the market entity, that will be disposed by the acquirer after settlement of transaction, as well as the share in in percentage of the total number of shares (share of participation in a charter of capital, shares) with the voting right and their percentage share from the capital charter of the market entity;

7) production forecast and realization of the same goods or substitutional goods in the results of settlement of this transaction.

2. The list of documents and information, necessary for direction (submission) of notification (application) to the antimonopoly body on committed (planned) economic concentration, provided by subparagraph 5) of paragraph 1 of Article 50 of this Law:

1) information on individual, participation of which is supposed in the executive bodies, boards of directors, supervisory boards or other management bodies of two or more market entities:

data of document, proving its identity, information on citizenship, place of employment, of position held, allowing to specify conditions of carrying on an entrepreneurial activity in this entities with specification of powers;

the list of legal entities, in which a person, directed (filed) notification (application) , specify conditions of carrying on an entrepreneurial activity with specification of powers;

2) the name of the legal entity (groups of persons) and management body, in which a person, directed (filed) notification (application), is appointed or elected;

3) the name of position in the market entity, to the executive bodies, boards of directors, supervisory boards and other management bodies of which inclusion of person, directed (filed) notification (application) is planned;

4) the list of rights, allowing to person, directed (filed)notification (application), specify conditions of carrying on an entrepreneurial activity in the market entities, to the executive bodies, boards of directors, supervisory boards and other management bodies of which inclusion of person is planned;

5) on each market entity and group of persons, in which a person, directed (filed) notification (application), specify conditions of carrying on an entrepreneurial activity, shall be specified:

the name of the market entity, legal and actual addresses;

production volume, realization, export and import of goods to the Republic of Kazakhstan;

6) on the market entity, in which participation of person, directed (filed) notification (application), is planned, as well as on group of persons, in which this person includes, shall be specified:

the name of the market entity, legal and actual addresses;

production volume, realization, export and import to the Republic of Kazakhstan of the same or substitutional goods, produced or realized by the market entity or group of persons, in which a person,, directed (filed) notification (application), specify conditions of carrying on an entrepreneurial activity.

Footnote. Chapter 8 is supplemented by Article 54-2 in accordance with the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 55. Prohibition on economic concentration

An economic concentration shall be prohibited, if it leads to restriction of competition.

Footnote. Article 55 is in the wording of the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

56. Decision on application on consent to the economic concentration

1. On the results of consideration of application on consent to the economic concentration, one of the following decisions shall be adopted by the antimonopoly body:

- 1) on the consent to the economic concentration;
- 2) on prohibition to the economic concentration with motivated conclusion.

2. Decision of the antimonopoly body on the consent to the economic concentration or prohibition of the economic concentration shall be drawn up by the act of the antimonopoly body and shall be directed to the person, filed an application during three business days from the date of adoption of such decision, and in relation of financial organizations to the National Bank of the Republic of Kazakhstan.

3. The consent of the antimonopoly body to the economic concentration may be conditioned by the carrying out of specified requirement and obligations, which eliminate or mitigate a negative effect of such creation on competition by the participants of economic concentration. Such conditions and obligations may be also related to restriction on management, use or disposition of property.

4. An economic concentration shall be carried out throughout the year from the date of making decision by the antimonopoly body on provision of the consent to the economic concentration. If the economic concentration is not carried out within the established period, participants of economic concentration shall file a new application on provision of permission to the economic concentration.

5. An antimonopoly body may overview his (her) own decision on the consent or prohibition to the economic concentration on its own initiative or upon application of the interested person in the cases:

1) if the circumstances became known during three years after adoption of decision, on the basis of which in adoption of such decision shall be denied;

2) if decision was adopted on the basis of unreliable information, provided by person, filed an application on carrying out of economic concentration, that led to adoption of illegal decision;

3) nonfulfillment of requirements and obligations by the participants of economic concentration, that conditioned the decision of the antimonopoly body.

6. On the results of reconsideration of a decision of the antimonopoly body shall:

- 1) leave the decision without changes;
- 2) alter a decision;
- 3) cancel decision;
- 4) accept a new decision.

7. In case, if on the results of reconsideration of a decision, an antimonopoly body makes a decision on refusal of the consent to the economic concentration, the state registration, reregistration of the market entity, rights to immovable property shall be recognized as illegal and canceled in a judicial procedure at the suit of the antimonopoly body.

8. An application shall be filed by the applicant for consideration of additional information and documents, which may change the previous decision of the antimonopoly body according to the procedure, established by this Law.

9. Decision of the antimonopoly body on reconsideration of previous decision to the economic concentration shall be drawn up by the act of the antimonopoly body and shall be directed to the interested person during three business days from the date of adoption of such decision.

Footnote. Article 56 as amended by the Laws of the Republic of Kazakhstan dated 25.03.2011 No. 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 56-1. Adoption of decision on notification on committed economic concentration

1. In case, if the written reply on necessity of cancel of transaction is not be directed to the person, directed a notification, upon the expire of the forty-five calendar days after receipt of notification to the antimonopoly body on committed economic concentration, an economic concentration shall be considered as completed.

2. In case, if upon consideration of notification on committed economic concentration is established by the antimonopoly body, that its commission led or may lead to restriction or elimination of competition, as well as by incurrence or strengthening of a dominant position of the market entity, an antimonopoly body shall render prescription, which is subject to execution during thirty calendar days.

3. In case of non-execution of prescription, an antimonopoly body shall be applied to court with the suit on compulsion of the market entity to execute prescription of the antimonopoly body.

Footnote. Chapter 8 is supplemented by Article 56-1 in accordance with the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 57. The grounds of termination of consideration of application on the consent to the economic concentration

1. Consideration of application on the consent to the economic concentration shall subject to termination in the following cases:

- 1) reception of notifications on revocation of an application from the applicants;
- 2) failure to provide information by the applicant in a specified period by the antimonopoly body, if the lack of information prevents to consideration of application;
- 3) delivery of unreliable information affecting an objective consideration of the application by the applicant.

2. Decision of an antimonopoly body on termination of consideration of application shall be drew up by the act of the antimonopoly body and shall be directed to the person, filed an application, during three business days from the moment of adoption of such decision.

3. After termination of consideration of an application, an applicant shall have a right to apply to the antimonopoly body with a new statement on the consent to the economic concentration.

Chapter 9. Detection of violations of the antimonopoly legislation of the Republic of Kazakhstan

Article 58. The grounds for the commencement of investigation of violation of the antimonopoly legislation of the Republic of Kazakhstan

1. An antimonopoly body shall investigate the violations of the Republic of Kazakhstan within its powers and shall accept a decision on the results of investigation.

2. The ground for the commencement of investigation shall be entry of information on violation of an antimonopoly legislation of the Republic of Kazakhstan to the antimonopoly body:

- 1) materials, received from the state bodies with notification to the violation of the antimonopoly legislation of the Republic of Kazakhstan;
- 2) the statement of individual or legal entity;
- 3) detection of the signs of violation of the antimonopoly legislation of the Republic of Kazakhstan by the antimonopoly body upon carrying out of its activity in the actions of the market entities;
- 4) an appeal of mass media to the antimonopoly body;
- 5) information, contained in the mass media.

3. The commencement of investigation shall be drew up by the order on carrying out an investigation.

4. the copy of the order on commencement of investigation shall be directed to the applicant and the object of investigation not later than three business days from the date of signing.

Footnote. Article 58 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 59. Preliminary of consideration the information on violation of the antimonopoly legislation of the Republic of Kazakhstan

Footnote. Article 59 is excluded by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 60. Persons, participating in investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan

1. Persons, participating in investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan shall be:

1) an applicant – individual or legal entity, directed information on violation of the antimonopoly legislation of the Republic of Kazakhstan to the antimonopoly body;

2) an object of investigation – individual or legal entity, in relation of actions of which the investigation is carried out. The specified persons shall be recognized as the object of investigation from the moment of issuance of an order on carrying out of investigation;

3) the interested persons – individuals or legal entities, whose rights and legal interests are involved in relation to the consideration of case on violation of the antimonopoly legislation of the Republic of Kazakhstan;

4) civil servant of the antimonopoly body – an employee of the antimonopoly body, authorized to carrying out of investigation;

5) the witness – an individual, who may be aware of any circumstances, material to the investigation;

6) an expert – not interested individual in the case, possessing special scientific or practical knowledge.

2. The persons, participating in case, shall have a right to carry out their rights and obligations independently or through the representative upon carrying out of investigation.

3. If in the course of investigation establishes that the signs of violations of the antimonopoly legislation of the Republic of Kazakhstan are contained in the action (omission) of non – object of investigation, but other person, an antimonopoly body

shall engage such person as the object of investigation according to the procedure, provided by Article 58 of this Law.

Article 61. Carrying out an investigation

1. In case of existence of actual data, specified to the existence of the signs of violations of the antimonopoly legislation of the Republic of Kazakhstan, established within the frame of consideration of information provided by paragraph 2 Article 58 of this Law, in actions of the market entity, state body, local executive body, the order on carrying out an investigation shall be made by the antimonopoly body.

2. The order on carrying out an investigation shall contain:

- 1) the name of the object of investigation;
- 2) the list of the issues and scope of circumstances, subject to establishment in the course of investigation;
- 3) the term of commencement and conclusion of investigation;
- 4) the surnames, names and patronymic of civil servants of the antimonopoly body, authorized to carrying out an investigation.

3. *Is excluded by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication)*

4. Investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan shall be carried out in the term, not exceeding two months from the date of issuance of the order on carrying out an investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan. The term of investigation of the case may be extended by the antimonopoly body, but no more than two months. The order on extension of term is issued; the copy of order shall be directed to the applicant and the object of investigation within three days from the date of its issuance.

4-1. An antimonopoly body shall register an act on appointment of investigation in the authorized body on legal statistics and special records by its presentation to the territorial subdivision of the authorized body on legal statistics and special records, as well as in the electronic format.

5. An antimonopoly body may adopt a decision on combining of several investigations into one or the allocation and carrying out of separate investigation.

Footnote. Article 61 as amended by the Laws of the Republic of Kazakhstan dated 10.07.2009 No. 178-IV; dated 10.07.2012 No. 36-V shall be enforced upon expiry of ten calendar days after its first official publication); dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 62. The evidence upon investigation of violation of the antimonopoly legislation of the Republic of Kazakhstan

1. The evidences of facts of violation of the antimonopoly legislation of the Republic of Kazakhstan may be any actual data, material for carrying out an investigation, as well as:

1) explanations of applicant, the object of investigation, the interested persons and witnesses;

2) experts conclusions;

3) material evidences;

4) other documents (as well as materials, containing computer information, photography and cinematography, sound, audio and video recording).

2. Civil servant of the antimonopoly body shall carry out collection of evidences.

3. Persons, participating in investigation of violations of antimonopoly legislation of the Republic of Kazakhstan, shall have a right to represent the actual data and shall prove its reliability.

Article 63. The rights of persons, participating in investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan

Persons, participating in investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan shall have a right to:

1) become acquainted with the case of materials, extract from it and copy, except of the materials, containing the confidential information and (or) the commercial secret of other market entities;

2) supply the evidences and participate in their investigation;

3) ask the questions to other persons, participating in case;

4) make an request on involvement of experts;

5) give explanations in written or oral form, produce their reasons in all arising questions in the course of investigation;

6) become acquainted with requests of other persons, participating in investigation, resist against requests, arguments of other persons, participating in investigation.

Footnote. Article 63 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 64. The rights and obligations of civil servants of the antimonopoly body upon carrying out an investigation

1. The civil servants of the antimonopoly body upon carrying out an investigation shall have a right to:

1) unobstructed access to the territory and the premises of the object of investigation;

2) the access to the computerized database (information systems) of the object of investigation in accordance with the subject of investigation;

3) request and receive the necessary information, documents and their copies, relating to the investigation, explanations in oral and written form on issues, arising in the course of investigation from the heads, civil servants and other employees of the object of investigation;

4) engage the specialists of other state bodies of the Republic of Kazakhstan and other persons as the experts upon carrying out an investigation.

2. In case of refusal of the head and (or) civil servants of the object of investigation on verbal request of the civil servant of the antimonopoly body, responsible for carrying out an investigation, to provide information, documents or their copies, as well as written or oral explanations, the relevant written request shall be served to them

In case of impossibility of service of written request to the head of the object of investigation, it shall be directed by postal communications by registered mail with delivery notification in the name of the head of the object of investigation.

3. Attribution of requested information to the commercial secret of the object of investigation shall not give occasion to refusal in providing of information to the civil servants of the antimonopoly body.

The use of specified information shall be carried out with compliance with the requirements of established legislative acts of the Republic of Kazakhstan by the civil servants of antimonopoly body to disclosure of information, containing commercial and other legally protected secret.

3-1. In case of attribution of information to confidential in accordance with the legislation of the Republic of Kazakhstan upon representation to the antimonopoly body, the market entity shall be obliged to specify confidentiality of its character by application of mark.

4. Any information on the object of investigation, received by the antimonopoly body, shall not subject to distribution in the course of investigation, except of the cases of transfer of information to other state body in accordance with the Laws of the Republic of Kazakhstan.

5. Specified requirements and make a request, not relating to the subject of investigation, shall be prohibited to the civil servants of the antimonopoly body, carrying out an investigation.

6. Upon consideration of information on violations and carrying out an investigation, the civil servants of antimonopoly body shall be obliged to:

1) take all measures to comprehensive, full and objective evidence-gathering and their research;

2) timely prepare conclusion on the results of preliminary investigation of information on violations;

3) timely prepare conclusion on suspension, renewal of investigation and on the results of investigation, as well as on appointment of the expertize;

4) direct the copies of the documents to the central state body in terms, not exceeding three business days from the date of approval of conclusions or signing of the orders on consideration of information on violations and investigation of violations by the territorial bodies.

Footnote. Article 64 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 65. Suspension of investigation of the case on violation of the antimonopoly legislation of the Republic of Kazakhstan

1. An antimonopoly body shall have a right to suspend investigation of violation of the antimonopoly legislation of the Republic of Kazakhstan in the cases:

1) consideration of other case, significance for consideration of violations of the antimonopoly legislation of the Republic of Kazakhstan, by the antimonopoly body, court, preliminary investigation bodies;

2) carrying out of other investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan in relation of this object of investigation;

3) carrying out expert examination.

2. The term of investigation of violation of the antimonopoly legislation of the Republic of Kazakhstan shall be interrupted upon suspension of investigation and shall be continued from the moment of renewal of investigation.

3. The civil servant of antimonopoly body shall render determination on suspension and renewal of investigation, as well as appointment of the expertize. A copy of determination on appointment of the expertize shall be directed to the expert during three business days from the date of rendering of such determination.

Footnote. Article 65 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 66. Termination of investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan

An antimonopoly body shall terminate investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan in the case of:

1) absence of violations of the antimonopoly legislation of the Republic of Kazakhstan in the actions of the object of investigation;

2) liquidation of the legal entity – single object of investigation;

3) death of individual - single object of investigation;

4) expiration of the statute of limitation, established by the legislation of the Republic of Kazakhstan on administrative offences;

5) existence of the act, entered into legal force, which contains conclusions on existence or the absence of violation of the antimonopoly legislation of the Republic of Kazakhstan in considered actions (omissions) by the antimonopoly body.

Article 67. Decision of the antimonopoly body on the results of investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan

1. On the results of investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan, the civil servant of the antimonopoly body shall prepare conclusion, on the basis of which an antimonopoly body accepts the relevant (relevant) decision (decisions):

1) on termination of investigation of violation of the antimonopoly legislation of the Republic of Kazakhstan on the grounds, provided by Article 66 of this Law;

2) on initiation of proceedings on administrative offence;

3) on rendering of prescription on elimination of violations of the antimonopoly legislation of the Republic of Kazakhstan;

4) on materials transfer to the law enforcement bodies for initiation of criminal case

2. Completion of investigation shall be the day of signing of conclusion by the civil servant (civil servants) of the antimonopoly body on the results of investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan.

The copy of conclusion on the results of investigation shall be served or directed as a letter with notification to the object of investigation not later than three business days from the date of its signing.

3. Approval of conclusion on the results of investigation of violations of the antimonopoly legislation of the Republic of Kazakhstan shall be drawn up by the order of the antimonopoly body in the term not later than thirty calendar days from the date of completion of the investigation.

4. The copy of order on approval of conclusion on the results of investigation shall be served or directed as a letter with notification to the object of investigation not later than three business days from the date of its signing. An applicant shall be informed on adopted decision in the same terms.

5. The day of signing the order on approval of conclusion on the results of investigation (adoption of decision) shall be considered the moment of detection of fact of commission of the administrative offence.

6. The order on approval of conclusion on the results of investigation may be appealed by the object of investigation in a court according to the procedure, provided by civil procedure legislation of the Republic of Kazakhstan.

Footnote. Article 67 as amended by the Laws of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication); by the Constitution Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 10. Restraint of violations of the antimonopoly legislation of the Republic of Kazakhstan and reconsideration of prescriptions of the antimonopoly body

Article 68. The grounds and procedure of determination of the monopoly income

1. Monopoly income may be received by the market entity in the results of:

1) commission of the anticompetitive agreement or coordinated actions of the market entities;

2) abuse of its dominant or monopoly position by the market entity.

2. Monopoly income shall be determined from the date of carrying out of actions, specified in paragraph 1 of this Article, by the market entity until the moment of termination of these actions by the market entity.

3. Monopoly income shall be determined upon:

1) establishment of monopoly high prices by the market entity, holding a dominant or monopoly position – as the difference between the income, received upon application of monopoly high price, and the incomes, received on the basis of price, determined in accordance with provisions of Article 14 of this Law;

2) establishment of monopoly high price by the market entity, holding a dominant or monopoly position – as the additional income, received by the market entity, holding a dominant position, in the results of increase in volumes of realization at the expense of elimination of competitors from the goods market;

3) establishment of monopsony low price by the market entity, holding a monopsony position – as the difference between the expenses of this market entity to purchase of goods at the price, determined on the basis of the necessary expenses to the market entity, realizing the goods, to production and realization of such goods and profits and the expenses, formed upon purchase of goods on monopsony low prices;

4) commission of anticompetitive agreements or coordinated actions by the market entity as all income, received from these actions, after deduction of reasonable expenses, necessary for production and (or) realization of goods, and actually paid taxes.

4. Withdrawal of monopoly income shall be made according to the procedure, established by the Code of the Republic of Kazakhstan on administrative offences.

Article 69. The measures of antimonopoly response

1. In accordance with established powers, an antimonopoly body shall have a right to:

1) give the compulsory for execution prescriptions to the market entities on: termination of violations of this Law and (or) elimination of their consequences; restitution; dissolution or alterations of agreements, contradicted to this Law; conclusion of agreements with other market entity in the case, if the violation is unwarranted refusal or evasion from conclusion of agreement with the defined sellers (suppliers) or buyers;

non-admission of violations of this Law;

2) give the binding orders to the state, local executive bodies on refusal or amendment of acts, adopted by them, on termination of violations, as well as dissolution or alterations of agreements, concluded by them, contradicted to this Law;

3) examine the cases on administrative offences in the field of protection of competition and restriction of monopolistic activity and impose administrative penalties according to the procedure, established by the Code of the Republic of Kazakhstan on administrative offences;

4) apply to court with the suits and applications, as well as participate in the process upon consideration of the cases, linked with application and violation of the antimonopoly legislation of the Republic of Kazakhstan by the courts.

2. Upon violation of this Law, the market entities, the state, local executive bodies shall be obliged to:

1) terminate the violation and eliminate its consequences, restitution, terminate an agreement, conclude an agreement with other market entity or introduce amendments in it, cancel an act, recognized by the antimonopoly body not relevant to the

antimonopoly legislation of the Republic of Kazakhstan, execute other actions, provided by the prescription in accordance with the prescription of the antimonopoly body;

2) compensate the caused losses in accordance with the civil legislation of the Republic of Kazakhstan;

3) execute the regulation of the antimonopoly body on imposition of an administrative penalty according to the procedure, established by the Code of the Republic of Kazakhstan on administrative offences.

3. Prescription shall subject to execution in established reasonable time by the antimonopoly body. An antimonopoly body shall carry out control of execution of issued prescriptions.

In case of non-execution of prescription, an antimonopoly body shall have a right to apply to court with the suit on compulsion of the market entity, state body to execute prescription of the antimonopoly body.

Footnote. Article 69 as amended by the Law of the Republic of Kazakhstan dated 06.03.2013 No. 81-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 70. Requirements to the drawing up of prescription

A prescription shall be drawn up on the strict security form of the antimonopoly body and shall contain:

1) the name of the market entity or the state body, in relation of which (which) prescription is drew up;

2) description of the established fact (facts) of violation of the antimonopoly legislation of the Republic of Kazakhstan, as well as the provisions of law, which were violated by the market entity or the state body;

3) actions, which the market entity or the state body shall commit for elimination of violation of the antimonopoly legislation of the Republic of Kazakhstan (or from commission of which (which) he (she) shall be refrained);

4) period for performance of prescription;

5) the term of delivery of information on execution of prescription;

6) signature of person, authorized to sign the prescriptions;

7) the common seal of the antimonopoly body.

Article 71. Reconsideration of prescriptions of the antimonopoly body

1. An antimonopoly body may reconsider the prescription (his (her) or the territorial body on own initiative or upon application of the interested person in the cases:

- 1) if the essential circumstances were not or might be known to the antimonopoly body, that led to rendering of illegal or unwarranted prescription;
- 2) if the prescription was rendered on the basis of unreliable information, that led to rendering of illegal or unwarranted prescription;
- 3) if the prescription was rendered with violation of the regulations of the legislation of the Republic of Kazakhstan;
- 4) correction of introduced in prescription of description or obvious arithmetic error.

An antimonopoly body may suspend execution of its prescription up to termination of its reconsideration, on which the persons, participating in the case are informed in written form.

2. On the results of reconsideration an antimonopoly body may:

- 1) leave the prescription unchanged;
- 2) change the prescription;
- 3) cancel the prescription;
- 4) render the new prescription.

3. Upon reconsideration of prescription on application of the interested person, an antimonopoly body shall not have a right to aggravate a situation of person, filed an application (complaint) or person in the interests of which it was filed.

Article 72. Verification of prescriptions of territorial bodies of the antimonopoly body

Prescriptions, adopted by the territorial bodies of the antimonopoly body may be verified upon applications of the market entities or on the initiative of superior antimonopoly body.

Article 73. An appeal of prescriptions of the antimonopoly body

1. An appeal of the antimonopoly body may be appealed in a court according to the procedure, established by the legislation of the Republic of Kazakhstan.

2. The grounds of appeal of prescriptions of the territorial body to the antimonopoly body shall be:

- 1) incomplete clarification of circumstances, material to the case;
- 2) unproved of the circumstances, material for the case and recognized as established;
- 3) inconsistency of conclusions, recited in the decision, circumstances of the case;
- 4) violation or incorrect application of regulations of the legislation of the Republic of Kazakhstan.

3. Prescription of the territorial body of the antimonopoly body may be appealed by the market entity in the antimonopoly body or in a court during three months from the date, when it was served to the market entity according to the procedure, established by the legislation of the Republic of Kazakhstan.

Article 74. Mandatory division or allocation in the cases of abuse by the dominant or monopolistic position

1. In case, if the market entity, holding a dominant or monopolistic position is brought to the administrative responsibility twice within one calendar year for violations, provided by Articles 10, 11 and 13 of this Law, and continue commit the actions, restraining the competition, an antimonopoly body shall have a right to apply in a court in order of development of competition with the suit on mandatory division of this market entity or separation from its composition of one or several legal entities on the basis of its structural subdivisions.

2. A court shall make decisions on mandatory division or allocation in order of development of competition, if in case of accumulation the following conditions are fulfilled:

- 1) there is no the technology conditional interrelation of structural subdivisions;
- 2) there is the possibility of independent activity on the relevant goods market for legal entities, created in a result of reorganization.

3. The court decision on mandatory division or allocation shall subject to execution by the owner or authorized body in recognition of requirements, provided by specified decision, and in the term, which is determined by the specified decision and may not be more than six months.

Chapter 11. Responsibility for violation of the antimonopoly legislation of the Republic of Kazakhstan

Article 75. Responsibility for violation of the antimonopoly legislation of the Republic of Kazakhstan

Violation of the antimonopoly legislation of the Republic of Kazakhstan shall entail responsibility, established by the Laws of the Republic of Kazakhstan.

Article 76. Exemption from transfer of monopoly income

1. An antimonopoly body shall be applied in a court with application on exemption of market entity from seizure of monopoly income, received in the result of commission of competitive agreements or coordinated actions, according to the

procedure, established by the legislative acts of the Republic of Kazakhstan, upon total observance of following conditions:

1) to the moment, when the market entity applies to the antimonopoly body on anticompetitive agreements or coordinated actions, an antimonopoly body did not receive information on these anticompetitive agreements or coordinated actions from other sources;

2) market entity shall take urgent measures on termination of his (her) participation in the anticompetitive agreements or coordinated actions;

3) market entity shall inform an available information on facts of anticompetitive agreements or coordinated actions throughout all investigation from the date of application;

4) voluntary compensation of the damage to the consumers by the market entity, caused in the result of commission of the anticompetitive agreements or coordinated actions.

2. Decision on exemption of the market entity from seizure of monopoly income in connection with active repentance shall be adopted by the court in accordance with the regulations of criminal or administrative legislation of the Republic of Kazakhstan.

SECTION 5. Final and transitional provisions

Chapter 12. Transitional provisions

77. An activity of operating state enterprises

1. The state enterprise, created until introduction into effect of this Law, shall be obliged to receive favorable conclusion of the antimonopoly body to its further activity on the relevant goods market during two years from the date of introduction it into effect.

2. In the same term an antimonopoly body shall be obliged to inspect the goods markets, on which the state enterprises operate, and prepare the conclusion on the level of development of competition on these goods markets, as well as on practicability of further activity on this goods market of the state enterprises.

3. The state enterprises, created up to introduction into effect of this Law and not received the favorable conclusion of the antimonopoly body to the further activity shall be privatized or reorganized to the state institution in accordance with the legislation of the Republic of Kazakhstan during the term, established by paragraph 1 of this Article, during three months upon the expire of this term.

Article 78. An activity of legal entities, more than fifty percent of shares (shares), which belong to the state and persons, affiliated with them

1. Legal entities, more than fifty percent of shares (shares), which belong to the state and the persons, affiliated with them, created until introduction into effect of this Law, with exception when such creation is expressly provided by the Laws of the Republic of Kazakhstan, during two years from the date of introduction it into effect shall be obliged to receive the favorable conclusion of the antimonopoly body to further activity on the relevant goods market.

2. In the same term an antimonopoly body shall be obliged to inspect the goods markets, on which these market entities operate, and prepare conclusion on the level of development of competition on these goods markets, as well as on practicability of further presence of the state, represented by economic partnerships and joint-stock society on this goods market.

3. Shares (shares) of legal entities, more than fifty percent of shares (shares), which belong to the state and the persons, affiliated with them, created until introduction into effect of this Law and not received a consent of the antimonopoly body to further activity in the relevant branch, shall be tendered during three months upon expire of the term, established by paragraph 1 of this Article. Sale of shares (shares) of these market entities shall be carried out by the legal entity, except of that, in which more than twenty-five percent of shares (shares) belong to the state.

Article 79. Management of the antimonopoly body

Excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after its first official publication)

Chapter 13. Final provisions

Article 80. Procedure of application of this Law

This Law shall be applied to the social relations, arising after introduction it into effect, except of the cases, provided by Articles 77 and 78 of this Law. On other legal relations, arising until introduction it into effect, this Law shall be applied to those rights and obligations that arise after introduction.

Article 81. The order of enforcement of this Law

1. This Law enters into force from 1 January, 2009.
2. Shall be considered to have lost force from the date of enforcement of this Law:
 - 1) The Law of the Republic of Kazakhstan dated 9 June, 1998 “On unfair competition” (Bulletin of the Parliament of the Republic of Kazakhstan, 1998, No 9-10

, Article 84; 2000, No. 21, Article 397; 2004, No. 23, Article 142; 2006, No. 3, Article 22; No. 15, Article 95);

2) The Law of the Republic of Kazakhstan dated 7 July, 2006 “On competition and restriction of monopolistic activity” (Bulletin of the Parliament of the Republic of Kazakhstan, 2006, No. 15, Article 94; 2007, No.19, Article 148).

The President
of the Republic of Kazakhstan

N.Nazarbayev

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Justice of the Republic of Kazakhstan