

**Cooperation Agreement
in the field of competition policy between
the Austrian Federal Competition Authority
and the Federal Antimonopoly Service of the Russian Federation**

The Austrian Federal Competition Authority (hereinafter referred to as “the BWB”) and the Federal Antimonopoly Service of the Russian Federation (hereinafter referred to as “the FAS Russia”) hereinafter referred to as the “Parties”,

expressing the intention to promote cooperation in the field of competition policy,

aiming at creation of favourable conditions for further development of cooperation of the Parties established by the Memorandum of Understanding in the competition policy field between the Austrian Federal Competition Authority and the Federal Antimonopoly Service of the Russian Federation of September 2, 2009,

basing on the principles of equality and mutual benefit,

highlighting the defining role of competition policy in promoting effective economic development of the Parties’ states,

have agreed as follows:

Article 1. Objective of the Agreement

The objective of the present Agreement shall be strengthening of co-operation between the Parties in the field of competition policy particularly with regards to general matters of implementation of competition policy, investigating actions of economic entities that affect competition in the territory of the Russian Federation and/or the Republic of Austria as well as in the area of competition advocacy.

Article 2. Cooperation on general matters

1. As regards cooperation on general matters of implementation of competition policy, the Parties shall:

- a) make available to each other annual statistics and data on their activity, texts of the laws and other regulations of their states, methodological recommendations on the principal directions of the Parties’ activity and other relevant materials on the development of the competition legislation,

- b) provide assistance to each other in establishing relations with legislative, executive and judiciary Authorities of their states,
- c) exchange experience in the field of conducting investigations related to violations of competition legislation of the Parties' states,
- d) engage specialists in holding consultations with the aim to exchange experience when investigating individual cases on violation of the national competition legislation;
- e) organize meetings of their high-level representatives for discussing the perspectives and trends for further development of bilateral cooperation;
- f) conduct study visits and trainings of experts with the aim of exchange experience.

2. The BWB shall provide the FAS Russia with information on its participation in the European Competition Network, as well as its activities within the Marchfeld Competition Forum.

3. The FAS Russia shall provide the BWB with information on its activities within the Interstate Council on Antimonopoly Policy operating within the frameworks of the Commonwealth of Independent States.

Article 3. Notification

1. The Party that established that actions of the economic entities in the territory of its state affect or could affect competition in the territory of the other Party's state, shall notify the other Party about that.

2. The Party established that actions of the economic entities taken place on the territory of the other Party's state affect or could affect competition on the territory of its state, shall notify the other Party about that.

3. Notification shall be sent in written form and shall contain a brief summary of the case, references to applicable national laws and regulations, and other information, which the sending Party considers to be necessary for the notification.

4. The Party, which received notification, shall consider the possibility of taking appropriate measures pursuant to the requirements of its applicable national legislation and shall inform the other Party on the results of such consideration.

Article 4. Request of information

1. In the course of investigating the actions of the economic entities which affect or could affect competition, each of the Parties shall have the right to send to the other Party a request of information on activities of the economic entities established in the state of the other Party. The requested information can be used only for the purposes specified in the request and related to the objectives of implementation of the present Agreement.

2. The request of information shall be provided in the written form and shall contain the purpose of the request, description of the case with attachment of necessary documents related to the case.

3. The requested information shall be provided in the time limit stated in the request, but not later than three months after the date of receiving the request. In case of occurrence of circumstances which may lead to missing the deadline to provide information or in case of impossibility to provide requested information the Party which received the request shall inform the other Party about that. Refusal to provide information should be motivated.

Article 5. Consultations

1. During the investigation of actions of the economic entities that affect or could affect competition on the territory of the Parties' states, each Party shall have the right to request another Party for holding consultations on any matters related to the investigation.

2. The Party interested in holding consultations shall submit the written request on holding the consultations with attachment of the necessary documents as well as with the grounds and conditions for holding such consultations.

3. The Parties shall hold the consultation not later than three months after receipt of the request unless otherwise agreed by the Parties.

Article 6. Features of application of the Articles 3, 4 and 5 of the present Agreement

1. The provisions of the Articles 3, 4 and 5 of the present Agreement shall be applicable under investigating the actions of the economic entities committed on the territory of the Parties' states, which affect or could affect competition in the Republic of Austria and/or in the Russian Federation.

2. For the purposes of application of the Articles 3, 4 and 5 of the Present Agreement the notion "the actions of the economic entities, which affect or could affect competition ", the Parties shall understand:

- abuse of dominant position by the economic entities established in the Parties' states;
- agreements or concerted actions of the economic entities established in the Parties' states or decisions by associations of the economic entities established in the Parties' states which have as their objective or as possible effect restriction of competition;
- transactions or other actions of the economic entities established in the Parties' states, in particular those that change rights of economic entities, participating in the transaction, or conducting other actions which lead or may lead to substantial lessening of competition.

Article 7. Confidentiality

1. The Parties shall not disclose information received in the process of joint activities within the frameworks of the present Agreement unless the Parties agree otherwise.

2. Notwithstanding any other provisions of the present Agreement, neither Party is required to communicate information to the other Party if communication of such information is prohibited by laws of the Party' state possessing such information.

3. Except as otherwise provided by the Parties, each Party shall fully ensure confidentiality of any information communicated by the other Party within the present Agreement. Each Party shall disclose information received from the other Party within the frameworks of the present Agreement to third parties only with the written consent of the Party providing such information.

Article 8. Correlation with other international agreements

The present Agreement shall not infringe the rights and obligations of the Parties relating to other international agreements where the Parties' states participate.

Article 9. Financial conditions

All the expenses related to travel, accommodation and meals of the Parties' representatives in the territory of the receiving Party's state within the frameworks of their participation in different events and meetings shall be covered by the sending Party.

Article 10. Settlement of disputes

Disputes between the Parties about the interpretation and/or application of provisions of the present Agreement shall be settled through holding consultations and negotiations.

Article 11. Concluding provisions

1. The present Agreement shall enter into force from the date of its signature and shall be effective before expiration of six months from the date of getting by either Party a written notification from the other Party on its intention to terminate the Agreement.

2. Obligations of the Parties on protection of the confidential information obtained as a result of application of the present Agreement shall continue to exist even after termination of the present Agreement.

3. Amendments to the present Agreement shall be made by mutual agreement of the Parties in the written form, executed as a Protocol and signed by both Parties.

The present Agreement is signed on 19th May 2011, in Moscow in two original copies each in German, Russian and English, all texts being equally authentic. In case of any divergence of interpretation the English text shall be used.

For the Austrian Federal Competition
Authority

Theodor Thanner m.p.

For the Federal Antimonopoly Service
of the Russian Federation

Igor Artemjew m.p.