

The Court confirmed: “Sibir Avia Service” CJSC, “RN-Aero” Ltd. and “Gazpromneft-Aero” CJSC restricted competition on the market of aviation fuel within the boundaries of Yemelyanovo airport

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On 10th August 2010, the Moscow Arbitration Court confirmed validity of the decision made by the Federal Antimonopoly Service (FAS Russia) regarding “Sibir Avia Service” CJSC, “RN-Aero” Ltd. and “Gazpromneft-Aero” CJSC.

On 25th January 2010, the FAS Russia’s Commission found that “Sibir Avia Service” CJSC, “RN-Aero” Ltd. and “Gazpromneft-Aero” CJSC violated Part 2 Article 11 of the Federal Law “On Protection of Competition”.

“Aeroflot – Russian Airlines” OJSC enquired to “Sibir Avia Service” CJSC about possibility to deliver company’s own aviation fuel to Yemelyanovo airport for the Aeroflot flights under a centralized schedule. However, “Sibir Avia Service” CJSC refused to provide possibility to “Aeroflot – Russian Airlines” OJSC for delivering its own aviation fuel, explaining its decision by absence of free space.

Investigating the case, FAS Russia established that “Sibir Avia Service” CJSC entered into the following fuel storage contracts:

- with “RN-Aero” Ltd. – the guaranteed storage of aviation fuel fixed at no less than 5000 tons;
- with “Gazpromneft-Aero” CJSC - the guaranteed storage of aviation fuel fixed at no less than 4000 tons.

Fixing quotas for storage of aviation fuel in “Yemelyanovo” airport for supplies of aviation fuel (kerosene) under an additional agreement to the contract between “Sibir Avia Service” CJSC and “RN-Aero” Ltd. and an additional agreement to the contract between “Sibir Avia Service” CJSC and “Gazpromneft-Aero” CJSC eliminates possibility of other companies to deliver aviation fuel. It forces air carriers to buy aviation fuel only from these suppliers.

Actions of “Sibir Avia Service” CJSC, “RN-Aero” Ltd. and “Gazpromneft-Aero” CJSC in terms of entering into additional agreements to the contracts for storage of aviation fuel in the airport warehouse for fuel and lubrication materials, which fixed quotas for the volume of stored fuel in “Yemelyanovo” airport, resulted in localizing aviation fuel (aviation kerosene) market within the boundaries of “Yemelyanovo” airport. It restricted competition on the market in question.

“Such actions of the companies prevent entry of “Aeroflot – Russian Airlines” OJSC to the market of aviation fuel and services for supplying aviation fuel in “Yemelyanovo” airport”, says Dmitry Routenberg, the Head of the FAS Russia’s Department for Control over Transport and Communications. “It, therefore, infringes the interests of “Aeroflot – Russian Airlines” OJSC.

When air carriers are able to independently deliver company's aviation fuel to refuel its aircrafts, it will have positive effect upon consumers as air fares can do down."

FAS Russia did not issue any determinations with regard to the violations because "Sibir Avia Service" CJSC, "RN-Aero" Ltd. and "Gazpromneft-Aero" CJSC voluntarily eliminated the antimonopoly violations.

Nevertheless, the companies filed a lawsuit to the Arbitration Court. Having examined the claim, the Court confirmed legitimacy of the FAS Russia's decision.

Reference:

In 2009 FAS initiated six antimonopoly cases against companies providing services for supplying aviation fuel in airports. Proceedings against "Avianeft" CJSC (Kaliningrad), "Creditinvest" Ltd. (Mineralnie Vody), "Anapa" Airport" CJSC, "Khabarovsk" Airport" OJSC, "Krasnodar" International Airport" OJSC and "Sibir Avia Service" CJSC (Krasnoyarsk) were initiated on the grounds of companies refusing "Aeroflot – Russian Airlines" OJSC possibility to deliver aviation fuel, owned by the air carrier, to the airports and the services for its storage.