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On 8th July 2010 at the Russian - American seminar on antimonopoly enforcement Evgeny Khokhlov, a lawyer of international legal firm "Linklaters CIS" and a member of the "Promoting Competition" Non-Commercial Partnership, made a presentation on "Legal issues of determining concerted actions".

In the introduction, Evgeny Khokhlov emphasized that his presentation is based on the analysis of EC competition law as Russian antimonopoly law to a considerable extent uses as a foundation competition law of the EC member-states.

Evgeny Khokhlov pointed out that lately efforts, in particular, in judicial practice, have been focused on proving concerted actions. However, the general issue - what should be considered concerted actions, their legal definition, the boundaries between concerted actions and "similar to them" agreements and collective dominance has not been determined yet.

Seeking solutions to these questions in view of the priority of enforcement practice outlined by the Russian antimonopoly authority - cartel enforcement (open or tacit agreements), is of utmost importance, stated Evgeny Khokhlov.

In the main part of the presentation, Evgeny Khokhlov explained the concept and signs of concerted actions in the EC competition law, because the above issues cannot be resolved without using experiences of, first of all, competition law of the EC member-states.

EC competition law defines two types of concerted actions:

- 1- concerted actions based on contacts between competitors;
- 2- parallel actions of competitors without contacts between them.

Analyzing the first type of concerted actions the presenter drew attention to the fact that concerted actions can be determined under the following conditions:

- contacts between economic entities (meetings, discussions, sessions of trade associations), discovering relevant information (written or oral);
- such contacts indicate cooperation between competitors, which counteract normal competition by eliminating or considerably decreasing uncertainty about future competitive behavior of an economic entity;
- such contacts lead to maintaining or changing commercial policy of the economic entities in question. Thus, according to Evgeny Khokhlov, an essential element of the concept of concerted actions in EC competition law is presence of contacts between competitors rather than the proof of concerted actions as such.

As an example of a precedent case on the second type of concerted actions, Evgeny Khokhlov discussed the case against Woodpulp as a clear illustration of concerted actions of economic entities.

Analyzing development of the concept of concerted actions in Russia, Evgeny Khokhlov concluded that in order to increase the standard of proof there is no need to introduce special amendments to the Law on Competition; it would suffice for the antimonopoly authority to more actively employ methods of economic analysis and for the courts to request submitting economic findings (expert reports) as evidence.