



Changing of the work concept of the antimonopoly service of Kazakhstan and bringing it into accord with the OECD standards

Azamat Maitiyev

Chairman of the Committee on Regulation of
Natural Monopolies, Protection of Competition and
Consumer Rights under the Ministry of National
Economy of the Republic of Kazakhstan

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Changes to the competition law of the Republic of Kazakhstan

October 30-31, 2015 – presentation of the Review on the OECD Global Forum on Competition

May 25-26, 2016 – highlighting of the Review results within Astana Economic Forum

June 17, 2016 – the OECD Competition Committee makes a decision on inviting Kazakhstan as a participant

Transition from reacting to
preventing violations of
competition law

- ❖ **Implementation of an institution of notification on presence of signs of violation of the competition law in actions (inaction) of a market entity**
- ❖ **Implementation of an institution of warning on inadmissibility of violations of the competition law**
- ❖ **Implementation of an institution of prescription addressed to state bodies on the necessity of committing of actions aimed at ensuring (developing) competition**



Changes to the competition law of the Republic of Kazakhstan

Right of a market entity
“to be heard”

- ❖ **Implementation of the conciliation commission institution under the competition authority**

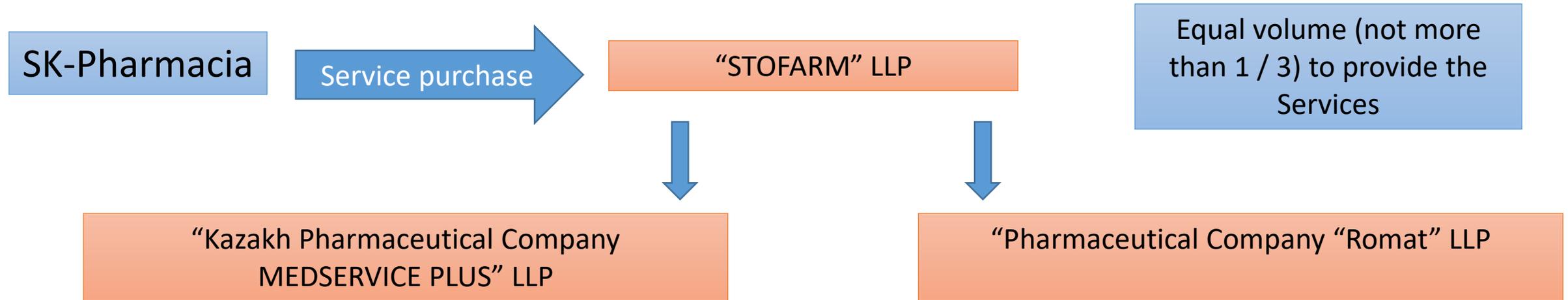
Participation in commission of business representatives, Atameken NCE, independent experts, including those who are involved by the market entity, ensures maximum publicity and objectivity of the dispute settlement process.

Focus on cartels

- ❖ **“Cartel” term has been implemented**
- ❖ **Horizontal agreements between market entities are prohibited**



Cartel in the market for storage and transportation of medicines and medical products



“STOFARM” LLP, “Kazakh Pharmaceutical Company “MEDSERVICE PLUS” LLP and “Pharmaceutical Company “Romat” LLP are competitors

*Court has found all three companies guilty with imposing fines (administrative fine and monopoly income), total amount of which for three companies was about **500 million tenge** (1.5 million US dollars).



Changes to the competition law of the Republic of Kazakhstan

“Checks at dawn”

- ❖ A copy of an order on investigation is given to objects of investigation, in whose actions the signs of cartel are seen, **during the investigation**

Leniency Program

- ❖ Market entity that has committed an administrative offense in the form of an anticompetitive agreement or anticompetitive concerted actions is exempted from administrative responsibility when the following conditions are met:
 - *antimonopoly authority has not received information about these anticompetitive agreements*
 - *market entity takes urgent measures to stop its participation in anticompetitive agreements*
 - *market entity reports full information about facts of anticompetitive agreements throughout the entire investigation process*
 - *market entity voluntarily reimburses a damage*

Verification of a draft agreement compliance with the requirements of the antimonopoly legislation

- ❖ Such measure makes gives possibility to reduce the level of violations of antimonopoly legislation and business entity will have a better understanding of norms of antimonopoly legislation



Cancellation of the state price regulation

❖ Replacement on tools of antimonopoly reaction

Since 1st of January 2017, state price regulation of prices of dominants in certain commodity markets was cancelled, such as:

- **market in the field of railway transport** (rent of railway passenger rolling stock, organization of container transportation, luggage transportation, repair of wagons and others);
- **market in the field of civil aviation and port activities** (use of VIP building, VIP passengers service, snow and ice cleaning of aircraft, etc.);
- **market in the field of telecommunications;**
- **market in the field of postal communication;**
- **market in the field of gas supply;**
- **market in the field of petroleum products production.**



Initiatives of the competition authority of the Republic of Kazakhstan

Audit of the legislation of the Republic of Kazakhstan

❖ **It is planned to analyze more than 100 laws and 1000 sub legislative acts**

90 laws and 787 sub legislative acts have been audited, about 2 216 provisions preventing competition were identified

Analysis of the Law of the Republic of Kazakhstan "On the state social order, grants and bonuses for non-governmental organizations in the Republic of Kazakhstan"

In the mechanisms of legislative regulation of the state social order there are the following negative signs that may or may not unreasonably restrict competition:

- granting discretionary powers to state bodies in the sphere of realization of the state social order;*
- fixing a special legal status and advantages for a individual legal entity in the sphere of grant financing of non-governmental organizations;*
- establishment of a special procedure on implementation of public procurement of services provided for by the state social order.*



Initiatives of the antimonopoly authority of the Republic of Kazakhstan

Enhancement of legal mechanism for identifying and suppressing price and tariff collusion, including in auction and in procurement at state and quasi-public sector, as well as for increasing responsibility for a price and tariff collusion and creating obstacles impeding their detection

Amendments to the legislation of the Republic of Kazakhstan, providing:

- definition of anticompetitive requirements for procurements and auctions;
- implementation of an administrative responsibility for violating anti-competitive requirements for procurement and auctions;
- implementation of a mechanism for monitoring by the antimonopoly body of carrying out auctions in compliance with competition protection legislation;
- strengthening powers of the antimonopoly body when conducting antimonopoly investigations.

Draft of the Law of the Republic of Kazakhstan "On Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on Enhancement of Entrepreneurial Activity Regulation."

Currently under consideration of the Government of the Republic of Kazakhstan



Further steps

Goal: fulfillment of all OECD recommendations and become an associated member of the OECD Competition Committee

Step 1

Visit of the OECD experts to Kazakhstan in the 1st quarter of 2018 in order to analyze the effect of implemented amendments to the competitive legislation of the Republic of Kazakhstan

Step 2

Conducting a second Review of Competition Law and Policy of the Republic of Kazakhstan in 2019

Step 3

Become an associated member of the OECD Committee on Competition

Thank you for attention!