

# The Role of Antimonopoly Committees in the Former Soviet Union

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One of the characteristics of the economies in transition from communism has been the creation of antimonopoly committees (AMCs) in almost every country. These AMCs differ considerably in their formal authority and jurisdiction and far more in their actual influence on events.

The creation of AMCs can be traced to the thinking among economic policy-makers that gave rise to the transition from communism.<sup>1</sup> The important role of antitrust in the Ludwig Erhard model, which so intrigued many of the first wave of leaders in the transitional economies of Eastern Europe, should not be ignored. A more powerful concern, however, was a residual recognition that there were potential problems with market economies such as market failures, market abuses, and the like. Just what these potential problems were was unclear, but apprehension persisted nevertheless. Both the donors and the recipients of aid in these transitional economies were initially anxious to duplicate the structure of the Western market economies, almost all of which have antimonopoly authorities. In fact, antimonopoly authorities have been rapidly spreading to more and more countries because of a recognition of the value of competition and because they are often viewed as a piece of the normal commercial law that is the price for easy entry into international commerce.

Countering the role of the consensus among aid donors and recipients in transitional economies on the problems of monopoly that led to the founding of the AMCs has been a countervailing concern on the part of the economies' managers in coordinating individual firm activity within industries. This concern has been embodied in a series of efforts to re-create the former coordinating roles of ministries and the Gosplan through associations, holding companies, and so-called Financial Industrial Groups. All of these efforts reflect a desire by economic managers to reassert direct control over decentralized activity as well as to avoid destructive competition.

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The focus of this article is AMCs in the former Soviet Union (FSU). In the FSU, research was started on antimonopoly policy in the All-Union Academy of Sciences in late 1988, long before extensive privatization was envisaged. Even then there was concern that the growth of the market would lead to monopoly distortions. Although an antimonopoly law was already approved by the USSR Council of Ministers in the summer of 1990, a serious interest in enforcing the law was demonstrated only in the summer of 1992, with the staffing of the AMC and the launching of an effort to regulate and register monopolistic firms. This 1992 antimonopoly effort was undertaken by those, such as Prime Minister Yegor Gaidar, directing the liberalization of prices in the hope that it would control the price surge that accompanied liberalization. Thousands of firms were registered by the AMCs as dominant enterprises, and an attempt was made to control their pricing process.<sup>2</sup>

It is generally recognized that the 1992 process of registering and controlling dominant enterprises went too far, and the monopoly registers were pruned, partly under the influence of hostile court decisions and partly because of political pressure.<sup>3</sup> Antimonopoly activity is now more frequently driven by particular grievances about high prices or abuse of competitors that are brought to the attention of the AMCs. Some of the evolving consensus is reflected in the new Antimonopoly Law approved in the early summer of 1995.

Although outside commentators have emphasized the importance of merger guidelines, relatively few merger cases have yet come to the AMCs' attention. The merger cases that have come before the AMCs are typically concerned with a desire of producers to obtain direct control of retailers or with the desire of recently separated enterprises to reunite.<sup>4</sup> Other merger cases involve foreign buyers of enterprises in which the objections to the mergers seem connected with foreign investment concerns rather than the impact of the merger on domestic competition.

### **Structure and Authority**

The formal authority of antimonopoly committees varies, but in the case of successor states to the Soviet Union, the AMCs have some common features based on drafts and ideas that were already circulating before the demise of that state.<sup>5</sup> Originally, these AMCs often were responsible for regulating financial markets; ensuring compliance with price control legislation; promoting small business, as well as regulating and controlling monopoly practices and situations; and protecting the rights of the consumer. As the AMCs have evolved, they have frequently lost much of their jurisdiction, but the complicated relationship of price legislation to any market behavior is still critical. In Kazakhstan, the AMCs control the monitoring of prices in registered dominant enterprises. In Russia, they simply supervise the prices set by other designated agencies. Although the amount of such price setting has declined, it is still substantial, particularly at the local level.<sup>6</sup>

The AMCs at the national level typically have a decentralized structure with local- and oblast-level AMCs loosely connected to a central AMC. The central AMCs typically try to strengthen their control, often with the assistance of for-

eign donors. The process of centralization is frequently opposed by the local AMCs. The resistance of the local AMCs is reinforced by the autonomous nature of the local political systems of which the district AMCs are a part.

Although they are nominally collegial and rely on various types of advisory panels, the AMCs, like most FSU organizations, depend heavily on their chairmen, personalities, and connections. Their relative authority and effectiveness varies widely based on the tenor of the relationships with other centers of power in the oblasts, especially with the heads of administrations, who are frequently called by their tsarist-era title of "Gubernator."

Some tension exists in the FSU between the AMC economists—who were typically connected with enterprises, manipulated their accounting data, and worked out their enterprise strategies—and AMC lawyers, who come from a fairly formalist, but strictly logical, legal tradition. In general, however, the lawyers have taken quickly to the kind of economics implicit in most contemporary antimonopoly analysis. The economists have done likewise, adjusting to their role as forensic consultants. A considerable number of lawyers and economists have read something about Western economics—major American texts are widely available in English, recent university graduates all have courses on market economics, and even the professional journals have relevant articles. But the basic orientation of economists in the FSU is still very different from that of economists in the West. Everyone concerned frequently reverts to roles in which they assume responsibility for the entire economy of the oblast instead of limiting themselves to the functions authorized in the enabling legislation.

The provisions of the antimonopoly law are not discussed in detail here. Briefly, the law includes sections defining and limiting the activities of dominant firms, restricting mergers (of almost all firms), and giving the AMC the right to punish anticompetitive actions of firms and government agencies. In all cases, as in the stereotypical (though not the actual) European case, the positive and negative effects of anticompetitive activities are to be weighed. In American terms, there are no forbidden practices per se. The antimonopoly committees must approve structural changes in dominant firms, and they have broad discretionary powers to break them up.

In fact, as indicated earlier, the AMCs have listed a large number of firms on their registers and have subjected them to various types of price regulation. They have increasingly proceeded against anticompetitive abuses and blocked mergers. They have frequently been involved in the details of restructuring as a result of privatization. Despite their powers, antimonopoly committees have done little demonopolization of already privatized firms, and considering the scope of government regulatory constraints on competition, they have rarely used their powers of intervention against other government agencies. However, most of the AMC activities have involved consumer protection and supervision of price legislation functions. The AMC have engaged, in varying degrees, in public education on the merits of competition and in advocacy of consumer rights.

In spite of their broadly stated powers, antimonopoly committees have been a relatively weak influence on policy outcomes, both because of the limits of the

legislation under which they operate (including mild sanctions) and because of their weak political position compared with other governmental entities—especially the industrial ministries and state property committees that still control much of enterprise behavior. The limitations of the legislation are being remedied over time as the laws are amended. Their political position depends very much on the personal equation between AMC leadership at the national and local levels and the heads of the overall national and local administrations.

At best, the antimonopoly committees use their powers to advocate for competitive market solutions at all levels of government; at worst they are another level of administrative busybodies imposing additional costs on enterprises and transactions. In between, they are a necessary part of the local administration that can play a more or less constructive role, depending on their ability and the local power equation.

### **Why Are Antimonopoly Laws Needed?**

With teetering banking systems, unclear procedures for enforcing contracts, and masses of failing enterprises, why do these economies in transition need antimonopoly laws? Western capitalist systems functioned for centuries without such laws; why can't these economies in transition wait? Is antimonopoly legislation a first priority?

The alacrity with which governments and donors have sponsored antimonopoly legislation and the antimonopoly committees suggests that there are some obvious merits in both the laws and the AMCs. Those merits are usually seen as including equity, efficiency, and dynamism.

### **Equity**

Antimonopoly committees serve to emphasize the revolutionary, egalitarian, and more publicly accepted side of capitalism.<sup>7</sup> Or to phrase it from the demand side, antimonopoly legislation responds to the public distrust of concentrated power and wealth.

### **Efficiency**

Antimonopoly legislation serves a special role in promoting a more competitive and efficient enterprise structure when the initial structure is highly monopolized and when habits of combination in restraint of competition are ingrained. Specifically, successful antimonopoly interventions by increasing competition can force down prices. This has been an important motivation for antimonopoly activity elsewhere in the world and certainly in the Russian case as well.

Although foreign competition can play the same role as domestic competition in lowering prices, it cannot reasonably be expected to do so under current Russian conditions.<sup>8</sup> This is partly because the cost of transport and the nature of many industries lead to closed domestic and frequently even closed local markets.<sup>9</sup> But the closure of markets also reflects Russian protectionism, both national and local, which has and will continue to run strong. This protectionism is often unofficial, reflecting a moral consensus that national and even local industrial

autarky needs to be protected at all costs. To some extent, the desire for local autarky may be endemic in Russia, but it was especially the theme of some of the various reforms of the Khrushchev and, to a lesser extent, the Brezhnev era.<sup>10</sup> An indication of this protectionist attitude was the conclusion of one Russian seminar audience in which I was present that monopoly abuses that affected only other districts were not really the responsibility of local monopoly authorities.

A considerable body of literature has discussed the structural problems of the former Soviet economy. Although commentators' details differ considerably, Joskow, for example, typically argues for downsizing and the creation of small businesses.<sup>11</sup> Numerous commentators have criticized the lack of such restructuring as the reason for the failure of many of the policies adopted over the last four years in Russia.<sup>12</sup>

### Dynamism

Antimonopoly legislation, if successful, can facilitate market entry by new entrepreneurs, innovators, and investors, both foreign and domestic. This is a theme that has not been emphasized in the academic literature, but it is certainly one that is prominent in the public policy dialogue for more active antimonopoly policy.

In the United States, where resentment of wealth is generally overcome by admiration for it, where no noticeable trend toward increasing industrial concentration is visible, and where a deficiency of innovation and foreign investment is not as acutely felt, concerns about innovation and entrepreneurship may not be compelling arguments. Marver H. Bernstein notes "the American habit of both respecting the accomplishments of bigness and fearing the political and economic consequences of increasing concentration of economic power."<sup>13</sup> In Russia, such concerns seem more convincing.

The more difficult question is whether the antimonopoly committees in Russia have achieved any of the purposes for which they were established. It will take time to provide a definitive answer. Actually, two questions are involved: Have antimonopoly committees resulted in a public conviction that competition is restraining capitalists from exploiting monopoly positions? And has the antimonopoly thrust resulted in a more appropriate industrial structure or in increased innovation and investment?

In the United States, the demonopolization of Standard Oil Company and AT&T led to increased efficiency and innovation in their respective industries. More generally, it could be argued that the enforcement of antitrust laws has led to a more competitive market than could otherwise have been expected. In Russia, the antimonopoly committees have intervened and have often been successful in court in forcing a more decentralized industrial structure than was other-

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wise planned. In several cases, they have forced the abandonment of cartels. Nevertheless, antimonopoly committees are still so new, and the volume of their anti-trust activity is so limited, that it is hard to say what the extent of their impact on market structure will be.

So far, the primary activity of the AMCs has been to list dominant enterprises on a register and try to regulate their activity and respond to specific complaints of abuse, mostly of price legislation. This activity was documented by Joskow, Schmalensee, and Tsulanova through 1994, but there is no indication that the AMC focus has changed.<sup>14</sup>

Other agencies have also had a key role in promoting antimonopoly policy, especially the State Property Committees responsible for privatization and certain research institutes, such as the Russian Privatization Center. In the broader field of consumer protection, Yakovlev and Kokorev argue that the State Trade Inspectorate has played a considerable role and that in some regions an active consumer movement has emerged.<sup>15</sup> One can be apprehensive that this movement may be constrained by the new, narrowly drawn advertising law. More generally, as Yakovlev argues,

The solution of these problems [of the monopolistic structure of Russian markets] went far beyond the level of authority of the Anti-Monopoly Committee and could not be accomplished merely by the application of anti-monopoly legislation. It was the prerogative of the highest level of state power, not of any single department, however, much influence and public support it enjoyed.<sup>16</sup>

In fact, Yakovlev argues that the thrust of the market and government organizations other than the AMC have accomplished a considerable degree of demopolization and that now the AMC “will occupy the modest but quite important place in the structure of executive power that analogous organs hold in developed market economies.”<sup>17</sup> Yakovlev wrote the preceding statement in early 1994, but I doubt whether much that has occurred since would change his judgment. Economist Anders Åslund takes a more critical position, arguing that there was never a significant monopoly problem, but he then seems to recognize problems of local trade restrictions that might seem to point to a role for the AMC on the local level. More generally, on both the local and national level, AMCs do serve as advocates for a more competitive policy and, in this, parallel to some extent the broader process of education in market economics that is under way in Russia.

#### NOTES

1. Mario Blejer and Fabrizio Coricelli, *The Making of Economic Reform in Eastern Europe* (London: Edward Elgar, 1995), 75.

2. Andrei Yakovlev, “Anti-Monopoly Policy in Russia: Basic Stages and Prospects,” *Communist Economies and Economic Transformation* 6 (1994): 33ff.

3. Anders Åslund, *How Russia Became a Market Economy* (Washington, D.C.: Brookings Institution, 1995), 152–56.

4. Paul L. Joskow, Richard Schmalensee, and Natalia Tsukanova, “Competition Policy in Russia During and After Privatization,” in *Brookings Economic Papers: Macroeconomics 1994* (Washington, D.C.: Brookings Institution, 1994), 360.

5. Yakovlev, “Anti-Monopoly Policy in Russia,” 33ff.

6. Åslund, *How Russia Became a Market Economy*, 274.
7. Joskow, et al., "Competition Policy in Russia," 303.
8. *Ibid.*, 304–05.
9. *Ibid.*, 323–24.
10. Alec Nove, *An Economic History of the USSR, 1917–1991* (London: Penguin, 1992), 364–69, 382–84.
11. Paul Joskow, Vladimir Capelik, and Ben Slay, "Antimonopoly Policy and Antimonopoly Regulation in Russia" in *De-monopolization and Competition Policy in the Post-Communist Economies*, ed. B. Slay (Westview, 1996); Annette N. Brown, Barry W. Ickes, and Randi Ryterman, "The Myth of Monopoly: A New View of Industrial Structure in Russia," Policy Research Working Paper 1331 (Washington, D.C.: World Bank, August 1994).
12. For example, Paul Joskow and Oliver E. Williamson, "The Institutions and Governance of Economic Development and Reform" in *Proceedings of the World Bank Annual Conference on Development Economics 1994* (Washington, D.C.: World Bank, 1995).
13. Marver H. Bernstein, *Regulating Business by Independent Commission* (Princeton, N.J.: Princeton University Press, 1955).
14. Joskow, et al., "Competition Policy in Russia."
15. A. Yakovlev and R. Kokorev, *Predpriyatiya Gosnaba v usloviya reform: mesto na rynke Izmennya v povedenii (1992–93 gg.)* (Moscow: Institut Ekonomicheskiih Problem Perexodnogo Perioda, Institut Issledovaniya Organizovannykh Rynkov, Vysshaya Shkola Ekonomikii, 1994).
16. Yakovlev, "Anti-Monopoly Policy in Russia," 35.
17. *Ibid.*, 43.