

FEDERAL ANTIMONOPOLY
SERVICE
(Russian FAS)

Attn.: the entities as per the list

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February 24, 2022 No. **III/14439/22**

Your Ref. No. _____ dated _____

RESOLUTION
in case No. 11/01/10-12/2021

The operative part of the resolution announced on February 10, 2022.

The resolution produced in full on February 24, 2022.

The Committee of the Federal Antimonopoly Service for antimonopoly case No. 11/01/10-12/2021 composed of: Chairman of the Committee — Deputy Head of the Russian FAS P.V. Ivanov; members of the Committee: Head of the Department for Regulation of Communications and Information Technology of the Russian FAS E.A. Zaeva; Deputy Head of the Legal Department of the Russian FAS M.I. Matyashevskaya; Head of the Information Technology Division of the Department for Regulation of Communications and Information Technology of the Russian FAS S.G. Kotelnikov; Deputy Head of the Information Technology Division of the Department for Regulation of Communications and Information Technology of the Russian FAS R.Yu. Grunin (the “Committee”),

having examined case No. 11/01/10-12/2021 suggesting possible violation by Google LLC (address: 1600 Amphitheatre Parkway, Mountain View, California, 94043, United States of America) (the “Defendant”) of Part 1 of Article 10 of Federal Law No. 135-FZ dated July 26, 2006 "On the Protection of Competition" (the “Competition Protection Law”) consisting in certain practical and regulatory actions (omission) by Google LLC to block (delete), arbitrarily and without warning, any account (content) on the YouTube video hosting service (the “Service”), which results (may result) in the infringement of the rights and interests of Service users in general (video content creators and end consumers) to freely receive and distribute information (content), to the infringement of the interests of business entities in the content distribution market, and to the restriction of competition in the adjacent market of advertisement distribution, including over the Internet; with the participation of attorneys of Google LLC, who are present at the meeting using video conferencing systems, namely Anna Avetikovna Arutyunyan (power of attorney w/o dated May 13, 2021), Oksana Arturovna Akhmedova (power of attorney w/o dated May 13, 2021), Evgeny Aleksandrovich Bolshakov (power of attorney w/o dated May 13, 2021), Natalya Mikhaylovna Korosteleva (power of attorney w/o dated May 13, 2021), attorneys of Regional Public Organization "Center for Internet Technologies" (ROCIT), namely Sergey Vartanovich Kazaryan (power of attorney w/o dated June 22, 2021), Oksana Aleksandrovna Pavlukhina (power of attorney w/o dated June 22, 2021), attorney of ANO RFK Akhmat Anastasia Yuryevna Vasilenko (power of attorney No. 09 dated May 07, 2021),

ESTABLISHED AS FOLLOWS:

I. In November 2020, the Federal Antimonopoly Service initiated its investigation of the market for the collection, storage, processing, provision, distribution, transmission, and viewing of video content on the Internet (video hosting services market), and its analysis of practice in blocking (deleting) accounts (content) of users (video content creators).

The investigation was triggered by the facts of blocking (deleting) of accounts (content) of Russian users (video content creators) by the YouTube video hosting.

The Russian FAS also received an application from Regional Public Organization "Center for Internet Technologies" ("ROCIT") (our ref. no. 210094/20 dated December 08, 2020) regarding the Google LLC's actions to arbitrarily block accounts and channels on the Service, which actions may violate the rights of Service users in general and restrict competition resulting in the reduction of the number of business entities.

By letter of the Russian FAS No. АД/98286/20 dated November 10, 2021, a request for information was sent to Google LLC (the Service owner and operator) regarding its practices of blocking (deleting) accounts (content), and their legal grounds.

Based on the data provided, it has been established that Google LLC blocks (deletes) accounts (content) of Service users in accordance with the YouTube Terms of Use¹ and the Google Terms of Use².

According to the YouTube Terms of Service:

- "If we reasonably believe that any of your Content is in breach of this Agreement or may cause harm to YouTube, our users, or third parties, we reserve the right to remove or take down some or all of such Content in our discretion. We will notify you with the reason for our action unless we reasonably believe that to do so: (a) would violate the law or the direction of a legal enforcement authority, or would otherwise risk legal liability for YouTube or our Affiliates; (b) would compromise an investigation or the integrity or operation of the Service; or (c) would cause harm to any user, other third party, YouTube or our Affiliates. For more details about what to do if your video was deleted, see this Troubleshooting page;

- there are a number of reasons why YouTube reserves the right to suspend or terminate your Google account or your access to all or part of the Service when authorizing directly or through a Google account. This may be done, if: (a) you materially or repeatedly breach this Agreement; (b) we are required to do so to comply with a legal requirement or a court order; or (c) we reasonably believe that there has been conduct that creates liability or harm to any user, other third party, YouTube or our Affiliates;

- if your account is deleted or temporarily blocked, you will receive a notice with the reason for our action unless we reasonably believe that to do so: (a) would violate the law or the direction of a legal enforcement authority, or would otherwise risk legal liability for YouTube or our Affiliates; (b) would compromise an investigation or the integrity or operation of the Service; or (c) would cause harm to any user, other third party, YouTube or our Affiliates. Before deleting a user account due to any changes in the Service, we are trying to provide the user with time to export its Content from the Service whenever possible."

According to the Google Terms of Service:

¹ <https://www.youtube.com/static?template=terms&gl=RU&hl=ru>

² <https://policies.google.com/terms?hl=ru>

- “Before taking the actions as described below, we’ll provide you with advance notice when reasonably possible, describe the reason for our action, and give you an opportunity to fix the problem, unless we reasonably believe that doing so would:

- cause harm or liability to a user, third party, or Google;
- violate the law or a legal enforcement authority’s order;
- compromise an investigation;
- compromise the operation, integrity, or security of our services.

- We reserve the right to take down some or all of your content in accordance with applicable law if we reasonably believe that any of your content: (1) breaches these terms, service-specific additional terms or policies, (2) violates applicable law, or (3) could harm our users, third parties, or Google. Examples include child pornography, content that facilitates human trafficking or harassment, and content that infringes someone else’s intellectual property rights.

- Google reserves the right to suspend or terminate your access to the services or delete your Google Account if any of these things happen:

- you materially or repeatedly breach these terms, service-specific additional terms or policies;
- we’re required to do so to comply with a legal requirement or a court order;
- we reasonably believe that your conduct causes harm or liability to a user, third party, or Google. For example, by hacking, phishing, harassing, spamming, misleading others, or scraping content that doesn’t belong to you.”

Having examined the above provisions of the YouTube Terms of Use and the Google Terms of Use, the Russian FAS found that they allow Google LLC, without having the appropriate legal or other grounds, to block (delete) at its discretion the accounts (content) of any users of the YouTube video hosting service, including users engaged in entrepreneurial activity using the above service (creation (production) of content, sale of goods, work, services, production and distribution of advertising, etc.).

Also, proceeding from the provisions of the YouTube Terms of Use, the Google Terms of Use, there are cases in which user accounts (content) will be blocked (deleted) without warning (notification). However, these cases are described in general terms that do not enable users to clearly understand the reasons why their accounts (content) were blocked (deleted) without warning (notice), and that also allow for unlimited discretion in taking such actions by Google LLC.

Moreover, proceeding from the above provisions of the YouTube Terms of Use and the Google LLC's explanations to the Russian FAS’s request, if the accounts of Service users (content creators) are permanently blocked on the grounds specified in the section "Account Suspension and Termination by YouTube for a Valid Reason", the owners of such accounts (including those blocked due to sanctions) will not be able to export (move) their content to new Service accounts and/or any external sources (other video hosting services, services and infrastructure where this content can be stored, etc.), as a result of which the content will be lost, and the person who created this content and thus engaged in its entrepreneurial activity will incur loss.

The provisions of the YouTube's terms of service allow to block (delete) any account (content) on the YouTube service arbitrarily and without warning. In addition, the Service does not allow account owners (including those blocked due to sanctions) to export (move) their content to new Service accounts and/or any external sources (other video hosting services).

The Russian FAS has analyzed the competitive situation in the market for the collection, storage, processing, provision, distribution, transmission, and viewing of video content on the Internet (video

hosting services market) and established that Google LLC (Service) occupies a dominant position in the video hosting services market.

The combination of actual and regulatory actions of Google LLC to block (delete), arbitrarily and without warning, any account (content) on the Service, and the impossibility of exporting (moving) content from blocked (deleted) accounts to new accounts on the Service and/or to any external sources (other video hosting services) results (may result) in the infringement of the rights of Service users in general (video content creators and end consumers).

Part 1 of Article 10 of the Competition Protection Law prohibits any actions (omissions) of a dominant business entity that result or may result in prevention, restriction, elimination of competition and/or infringement of the interests of other persons (business entities) in entrepreneurial activity, or of consumers in general.

Thus, the Russian FAS suspected possible violation of Part 1 of Article 10 of the Competition Protection Law in the above actions (omission) by Google LLC, as a result of which the Russian FAS issued its order No. 363/21 dated April 19, 2021 on the initiation of case No. 11/01/10-12/2021 and the establishment of the Committee for the antimonopoly case suggesting possible violation by Google LLC of Part 1 of Article 10 of the Competition Protection Law.

ROCIT (the “applicant”) was involved in the Case as an applicant by the order dated (Russian FAS ref. no. III/43140/21 dated May 27, 2021) to schedule the examination of antimonopoly case No. 11/01/10-12/2021.

On June 17, 2021, the Russian FAS received an application from ANO RFK Akhmat (address: 3 S.Sh. Lorsanov St., Grozny, Chechen Republic, 364013) (our ref. no. No. 100584/21 dated June 17, 2021) suggesting possible violation of antimonopoly laws in the Defendant’s actions (omission) based on which the Case was initiated.

By its order to delay the Case dated June 23, 2021 (Russian FAS ref. No. III/54050/21 dated June 30, 2021), the Committee involved ANO RFK Akhmat as an interested party (the “interested party”), since the Case has already been initiated proceeding from the suggestions that based its application to the antimonopoly authority.

II. On September 21, 2021, the Defendant presented its theory of the Case (your. ref. no. No. 158294/21 dated September 21, 2021), where it disagreed with the findings of the Russian FAS that the above actions contain any possible violation of Part 1 of Article 10 of the Competition Protection Law (the “Case Theory”).

Thus, according to the Case Theory, the YouTube Terms of Service and the Google Terms of Service contain an exhaustive list of grounds for blocking (deleting) accounts (content) of Service users. In addition, the Service contains the description of the procedure for giving preliminary notifications (warnings) to users where the latters violate (may violate) the relevant provision of the documents regulating the cooperation between the users and the Service. The Service also contains the description of the procedure for appealing³ any actions of the Service Administration towards any particular user (its account, Service content).

Thus, in the opinion of the Defendant, no suggested abuse of a dominant position in the product market is contained in the actions of Google LLC in applying the YouTube Terms of Use and the Google Terms of Use, and the relevant appendices to these documents. The policies of the Service are formulated in such a way as to ensure the safety of users and to restrict them from any potentially unacceptable content.

³ <https://support.google.com/youtube/answer/185111?hl=ru>

Having examined the Case Theory, the Committee finds that it is inconsistent with the Case records and the factual circumstances.

As specified above, the YouTube Terms of Service and the Google Terms of Service contain arbitrary wordings that allow Google LLC to block (delete) accounts (content) of any Service users almost with no justification.

The relative arbitrary wordings do not contain examples of their application and interpretation, and do not lead to the relative sections of the website where examples of their application could be given. The YouTube Terms of Service and the Google Terms of Service contain provisions that in certain cases and under certain circumstances Google LLC may omit to give notices (warnings) to a user about the measures taken against it (its account, Service content) in connection with the violation of the relevant policy (provisions) of the Service.

According to the Committee, these provisions are unfounded and may result in the infringement of the interests of Service users due to the fact that they will not be notified of the measures taken against them (their accounts, Service content) and will not have the opportunity to appeal against such measures.

The Committee examined the section of the Google⁴ website dedicated to appealing the actions of Google LLC (the Service) towards users (their account, Service content). Following the examination, it was established that the Service does not contain the description of the procedure or the timeframe for appeals, the result of the appealing process and the timeframe for giving a notice to users to such effect.

According to the Committee, the lack of transparency (lack of procedure, timeframes, results) in the appealing process by Google LLC (the Service Administration (operator)) may infringe on the interests of Service users and contribute to abuses by Google LLC (the Service Administration (operator)) in terms of responding to user complaints and applying certain measures against violators (or the persons who did not violate the relevant provisions) of the YouTube Terms of Use and the Google Terms of Use. The applicant and the interested party also referred to such lack of transparency.

III. On September 27, 2021 (our ref. no. 161715/21 dated September 27, 2021) and October 21, 2021 (our ref. no. No. 177388/21 dated October 21, 2021), the Defendant submitted objections, explanations and the opinion (the “Objections”) in respect of the analysis of the competitive situation in the market for the collection, storage, processing, provision, distribution, transmission, and viewing of video content on the Internet (video hosting services market) (the “Analysis”) conducted by the Russian FAS.

The Objections indicate that the Russian FAS incorrectly defined the product boundaries of the product market being considered in the Case. According to the Defendant, the Service operates not in the video hosting services market, but the social media services market (the market of services of access to social networking platforms based on user content).

The Service does not occupy a dominant position in the specified market, since this market is highly competitive (VKontakte, Instagram, TikTok, Telegram, Odnoklassniki, Yandex.Zen operate in this market among others).

Having considered the Objections, the Committee finds that they do not refute the Analysis findings. The service, like its competitors, has certain user interaction functions (likes, comments, chats, etc.) and advertising functionality (these features are also specified in the Analysis). The specified functionality may form separate product markets that are not to be examined as part of the Case. The examination of the Case covers exactly the market of video hosting services which provide users with a range of services for collecting, storing, processing, providing, distributing, transmitting, and viewing

⁴ <https://support.google.com/youtube/answer/185111?hl=ru>

video content, with two classes of consumers: consumers viewing video content and consumers distributing video content.

Thus, the findings made in the Objections do not refute the findings made in the Analysis conducted by the Russian FAS.

IV. The Committee investigated the issue that the Service, under certain circumstances and in case of violation of certain provisions of the YouTube Terms of Use and the Google Terms of Use, does not allow owners of blocked accounts to export (move) their content posted on the Service to new Service accounts and/or any external sources (other video hosting services).

Following this investigation, the Committee has not established that Google LLC (the Service administration (operator)) prevents (restricts) users from additionally (concurrently) storing (distributing) the relevant content in any other services (video hosting, cloud storage) and/or media. Also, the Committee has not established that the actions of users to independently store their content create any difficulties for them. Thus, the Committee did not establish, to the specified extent, the fact or the possibility of any adverse effect for users as provided for in Part 1 of Article 10 of the Competition Protection Law in the specified actions of the Defendant.

V. During the meeting of the Committee on January 14, 2022, the Defendant specified that on January 05, 2022 it made amendments to the YouTube Terms of Use which may affect the circumstances considered in the Case.

VI. During the meeting of the Committee on January 14, 2022, ROCIT requested that the Report on the research work devoted to the “Approaches to assessing the competitive situation in the markets for services with video hosting service functions in light of the requirements of the Russian antimonopoly laws” (the “Report”) be included in the Case records. Also, in the course of inclusion of the said document, the ROCIT attorney explained that the Report contains a section devoted to the assessment and criticism of the Analysis.

VII. Considering the findings contained the Analysis, the statements made by the applicant and the interested party, and the examination of the YouTube Terms of Use, the Google Terms of Use, the Committee finds as follows:

1. Google LLC occupies the dominant position in the market for the collection, storage, processing, provision, distribution, transmission, and viewing of video content on the Internet (video hosting services market) within the geographic boundaries of the Russian Federation.

2. The provisions of the YouTube Terms of Service and the Google Terms of Service allow to block (delete) any account (content) on the Service arbitrarily and without warning. In addition, the Service and the relevant documents regulating the Service do not contain the description of the procedure for appealing against actions (omission) of the Service Administration (with the timeframe, procedure and result of the appealing process), which may result in abuse on the part of the latter and infringe on the interests of the Service users.

It has been established that Google LLC (YouTube) has applied the specified arbitrary provisions of the YouTube Terms of Use, the Google Terms of Use to the accounts of Russian video content creators, which resulted in blocking of these accounts by Google LLC (YouTube) and unavailability of the video content itself. At the same time, the owners of blocked accounts have not been properly informed about the reasons for such blocking (deletion), which creates uncertainty for them and the consumers of their content and infringes on their interests in respect of their unimpeded receipt and dissemination of information.

Also, the specified actions (omission) by Google LLC (YouTube) may result in the infringement of the interests of business entities in the content distribution market, and in the restriction of competition

in the adjacent product market of advertising distribution, including on the Internet. Thus, unreasonable deletion (blocking) of YouTube accounts (channels) that are popular among users may result in the fact that advertisers which place ads on such accounts (channels) will not be able to place the related advertising materials due to such deletion (blocking) and will thereby lose revenue and an important channel for distributing the advertising product, which may have an adverse effect on the business of advertisers dealing with the distribution of ads on the Internet.

Thus, the combination of the specified actual and regulatory actions (omission) of Google LLC to block (delete), arbitrarily and without warning, any account (content) on the YouTube Service results (may result) in the infringement of the rights and interests of Service users in general (video content creators and end consumers) in respect of their unimpeded receipt and distribution of information (content), to the infringement of the interests of business entities in the content distribution market, and to the restriction of competition in the adjacent market of advertisement distribution, including over the Internet.”

At the same time, the Defendant’s reference to the changes made to the YouTube Terms of Use on January 05, 2022 does not refute the above findings that the previous and current versions of the YouTube Terms of Use and the Google Terms of Use contain provisions that lead (may lead) to the infringement of the interests of consumers and/or legal entities, and to the restriction of competition in the adjacent advertising market, including over the Internet.

Besides, the Report attached by the applicant does not refute the findings contained in the Analysis regarding the Google LLC's dominant position in the video hosting services market, which is also confirmed by the oral explanations given by the ROCIT attorney (S.V. Kazaryan) during the meeting of the Committee on January 14, 2022.

Part 1 of Article 10 of the Competition Protection Law prohibits any actions (omissions) of a dominant business entity that result or may result in prevention, restriction, elimination of competition and/or infringement of the interests of other persons (business entities) in entrepreneurial activity, or of consumers in general.

In the light of the totality of the presented evidence of abuse by Google LLC of its dominant position in the market for the collection, storage, processing, provision, distribution, transmission, and viewing of video content on the Internet (the video hosting services market), the Committee being governed by Article 48.1 of the Competition Protection Law has qualified the specified actions (omission) by Google LLC as a violation of Part 1 of Article 10 of the Competition Protection Law.

VIII. On January 14, 2022, the Committee according to Article 48.1 of the Competition Protection Law issued Opinion on the Facts of Antimonopoly Case No. 11/01/10-12/2021 (the “Opinion”) and delayed the said case until February 10, 2022. By letter No. ПИ/1864/22 dated January 17, 2022, copies of the opinion were sent to the parties to the case and received by them.

Under Part 5 of Article 48.1 of the Competition Protection Law, the parties to the case may submit their explanations to the Committee, as well as their evidence and arguments in writing in respect of the circumstances set out in the opinion of the facts of the case, before the completion of consideration of the antimonopoly case and the announcement of the operative part of the resolution therein at the meeting of the Committee.

On January 26, 2022, Google LLC submitted its objections to the Opinion to the Russian FAS (our ref. no. 11890/22 dated January 26, 2022, the “Objections”).

On February 10, 2021, ROTCIT submitted its written explanations on the Opinion to the Russian FAS (our ref. no. 21145-ЭП/22 dated February 10, 2022, the “Explanations”) in support of the arguments and findings contained in the Opinion.

On February 10, 2022, attorneys of Google LLC presented three petitions at the meeting of the Committee:

- to delay the Case due to the need for Google LLC to examine the Explanations newly submitted by ROCIT;
- to present the evidence to Google LLC in support of the allegation that the calculation by Google LLC of the market size and market shares based on the time spent by users in social networks is incorrect;
- to examine the evidence in support of the finding that the actions (omission) by Google LLC may result in the restriction of competition in the adjacent product market for advertising on the Internet.

The ROCIT attorney objected to the satisfaction of the above petition by Google LLC to delay the case and stated that the arguments contained in the Explanations repeat the ROCIT's case theory previously stated in the course of the consideration of the Case, and that the Google LLC attorneys may hear it and, if appropriate, comment on it or traverse. Then, the ROCIT attorney gave an oral explanation on the merits of the document presented.

The interested party's attorney sustained the ROCIT case theory in the Objections.

Following the ROCIT attorney's presentation, the Google LLC attorney informed again the Committee of the petition to delay the case, since Google LLC needs to examine not only the oral summary of the Explanations, but the document itself as well. At the same time, the Google LLC attorney also noted that during the presentation of the case theory, the ROCIT attorney stated new arguments about Google LLC's violation of antitrust laws which he had not previously given or included in the Case records. Google LLC is therefore required to examine the new arguments given in the Explanations and to express its stance thereon.

Having heard to the attorneys of the parties to the Case, having considered the submitted petitions and records of the Explanations, the Committee resolved to dismiss the petitions filed by Google LLC during the meeting of the Committee on February 10, 2022 on the following grounds.

1. Having examined the Explanations and having heard to the ROCIT attorneys, the Committee found that the arguments given in the Explanations repeat the previous ROCIT arguments regarding the dominant position of Google LLC and its abuse of it, which leads to the infringement of the interests of consumers and to the restriction of competition.

At the same time, the Committee notes that the Explanations do indeed contain the arguments that were not previously stated by the ROCT attorneys in the course of the consideration of the Case. Thus, it is noted in the Explanations that the Defendant's regulatory actions that violate the antitrust laws may also include the actual elimination of efficient mechanisms for users to protect their rights violated by the Defendant. It is expressed both in (a) the limitation of the possibility of judicial protection of users' rights, and in (b) the Defendant's refusal to incur civil liability for damages incurred through its fault.

However, the arguments stated in the Explanations were not examined by the Committee and are not the subject of consideration of the Case. In addition, the Explanations contain the stance that the Russian FAS in its Opinion established a violation of antitrust laws, including in the Google LLC actions (omission) relating to the lack of the possibility on the Service to export data from permanently blocked channels.

However, the Committee notes that this argument given in the Explanations is inconsistent with the Opinion, wherein no fact of violation of antitrust laws is found in the Google LLC actions (omission).

Thus, the Committee notes that the Explanations do not contain any new arguments not previously stated by the Applicant in respect of the circumstances that are the subject of the case, and that the Applicant's additional arguments are not relevant to the case.

In view of the foregoing, the Committee resolved to dismiss the Google LLC's petition to delay the case, since the records of the Explanation and any possible Google LLC's additional stance thereon would not contribute to a full, comprehensive and unbiased consideration of the case.

2. When conducting the Analysis and establishing the main indicator for the calculation of the product market size, the Committee proceeded from the product boundaries of the market under consideration, which are defined as the market of services for the collection, storage, processing, provision, distribution, transmission, and viewing of video content on the Internet (the market for video hosting services).

For the video hosting services market, one of the main indicators for calculating the product market size is the data (traffic) volume transferred from/to video hosting services, since it shows the volume of content that is posted on video hosting services and which indicates the popularity of these services among different groups of consumers of video hosting services (individuals, content creators, advertisers, etc.).

The criterion for calculating the product market size based on the time spent by users in social networks, as stated by the Defendant, cannot be applied due to the fact that the market of social networks (social media services) is not investigated as part of the Analysis and the Case. This argument was also set out in the Opinion.

In view of the foregoing, the Committee resolved to dismiss the Google LLC's petition to present the evidence in support of the allegation that the calculation by Google LLC of the market size and market shares of business entities in such market is incorrect. The Analysis did not cover the social media market (social media services), and the Committee does not have a stance on the correctness (incorrectness) of any particular indicator for calculating the said market.

3. The possibility of adverse effects from the actions (omission) by Google LLC relating to unreasonable deletion (blocking of accounts (channels) on the advertising market, including over the Internet, and its participants, is described above and in the Opinion as well. At the same time, the Committee established that there is an objective relationship between the dominant position of Google LLC in the video hosting services market, the commission of the actions (omission) in question, and their adverse effects or the possibility of such effects, on, *inter alia*, an adjacent market.

During the consideration of the case, the parties to the case were given the opportunity to examine the evidence in due course.

The Committee also dismisses the arguments of the Objections to this extent, since they are inconsistent with the Case records and the actual situation in the video hosting services market and the adjacent advertising distribution market, including over the Internet.

IX. In the Objections, the Defendant repeated its arguments regarding the incorrectness of the Russian FAS's determination of the product boundaries of the market being investigated as part of this case and regarding the lack of its dominant position in this respect. The Defendant also presented certain additional arguments on the merits of the Opinion.

Thus, according to the Defendant, its actions cannot lead to the infringement of the rights and interests of the Service users in general to their unimpeded receipt and dissemination of information (content).

In addition, the Defendant believes that the right to access information is not the subject to regulation by the Competition Protection Law and that the identification (prevention) of any such violations is not reserved to the Russian FAS.

At the same time, the Committee notes that the subject of the Case is the actions (omission) of a dominant entity in the video hosting services market and the assessment of the effects of such actions (omission) on users of the relevant service.

The consideration of the above circumstances is directly reserved to the Russian FAS and follows from the requirements of the Competition Protection Law and Part 1 of Article 10 thereof.

If as a result of any actions (omission) of a dominant entity, the interests of consumers in general are infringed, including in respect of unimpeded receipt and distribution of information (content), the prevention of such actions (omission) shall be reserved to the antimonopoly authority.

At the same time, the Competition Protection Law does not contain any mandatory provisions on what actions (omission) of a dominant entity and what effects of such actions may be deemed as an infringement of the interests, and what such infringement is.

Thus, according to the Committee, the above arguments are untenable and inconsistent with the Competition Protection Law.

X. Considering the findings of the Opinion on the presence of a violation of Part 1 of Article 10 of the Competition Protection Law in the actions (omission) by Google LLC, which are not refuted by the arguments of the Objections, the Committee finds that the combination of the actual and regulatory actions (omission) of Google LLC to block (delete), arbitrarily and without warning, any account (content) on the Service results (may result) in the infringement of the rights and interests of Service users in general (video content creators and end consumers) in respect of their unimpeded receipt and distribution of information (content), to the infringement of the interests of business entities in the content distribution market, and to the restriction of competition in the adjacent market of advertisement distribution, including over the Internet.”

Part 1 of Article 10 of the Competition Protection Law prohibits any actions (omissions) of a dominant business entity that result or may result in prevention, restriction, elimination of competition and/or infringement of the interests of other persons (business entities) in entrepreneurial activity, or of consumers in general.

As part of the Case, it has been established that Google LLC (YouTube) has applied the specified arbitrary provisions of the YouTube Terms of Use, the Google Terms of Use to the accounts of Russian video content creators. At the same time, the owners of blocked accounts have not been properly informed about the reasons for such blocking (deletion) and cannot appeal the such actions of the Service Administration using the appropriate procedure, which creates uncertainty for them and the consumers of their content and infringes on their interests in respect of their unimpeded receipt and dissemination of information.

The Committee therefore finds that there are grounds to issue a compliance notice to Google LLC.

Being governed by Article 23, Part 1 of Article 39, Parts 1-4 of Article 41, Article 49, Article 50 of the Competition Protection Law, the Committee

RESOLVED AS FOLLOWS:

1. Recognize the actions (omission) by Google LLC (address: 1600 Amphitheatre Parkway, Mountain View, California, 94043, United States of America) to establish vague provisions in the YouTube Terms of Use, Google Terms of Use that allow to block (delete) any account (content) on the YouTube video hosting service (the “Service”) arbitrarily and without notice (warning) as a violation of Part 1 of Article 10 of the Competition Protection Law in the absence on the Service and in the relevant

documents regulating the activities of the Service (containing the timeframe, procedure and result of appealing) of any procedure for appealing actions (omission) of the Service Administration.

2. Following the examination of the Case, issue a compliance notice to Google LLC (address: 1600 Amphitheatre Parkway, Mountain View, California, 94043, United States of America) to cease the abuse of its dominant position and to take actions intended to secure the competition.

Chairman of the Committee

/Signature/

P.V. Invanov

Members of the Committee:

/Signature/

E.A. Zaeva

/Signature/

M.I. Matyashevskaya

/Signature/

S.G. Kotelnikov

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