

Federal State Budgetary Educational Institution of Higher Education
«RUSSIAN PRESIDENTIAL ACADEMY OF NATIONAL ECONOMY AND
PUBLIC ADMINISTRATION»

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ADMINISTRATIVE AND LEGAL REGIME FOR ENSURING COMPETITION
IN COMMODITY MARKETS IN THE RUSSIAN FEDERATION

ABSTRACT TO THE DISSERTATION

for the degree of Doctor of Law

Specialty: 5.1.2 – Public Law (State Law) sciences

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Moscow – 2025

The relevance of the study of the problems of ensuring competition in commodity markets is due to the importance of competition in the development of the economy, including in the formation of equal conditions for producers of goods and services, the formation of economically sound pricing for consumers and the exclusion of the possibility of obtaining monopolistically high profits. The practice of legal regulation aimed at creating a competitive economy and conditions for the free circulation of goods and services has gone through certain periods of development in the history of modern Russia and is characterized by different approaches to achieving its goals. This is reflected in the legislative acts regulating this sphere of public relations.

The development of a market economy in Russia is inextricably linked to solving the tasks of creating a competitive environment, limiting economic concentration and monopolization, and developing production and trade in commodity markets. In this regard, in the state regulation of public relations developing in the field of economics, along with measures of antimonopoly regulation, there is a need to use measures aimed at the formation, maintenance and development of a competitive environment. This objectively makes it necessary, when implementing legal regulation, to use public and private legal measures to influence economic relations, establish procedures for ensuring state protection of the rights of economic entities in commodity markets and measures of state incentives for commodity producers. It is important to improve the administrative procedures for state control and supervision of compliance with established rules and restrictions aimed at ensuring equal competitive conditions for subjects of relations in the commodity markets.

The theoretical analysis of the legal foundations of competition policy implementation in the context of the administrative and legal nature of competitive relations is of scientific interest and is relevant due to the different approaches that have developed in determining the dual nature of the scientific doctrine of competition law: civil law and administrative law. The establishment and theoretical justification of the nature of public relations, organizational and legal forms and methods aimed at creating and ensuring competitive conditions is conditioned by the inadmissibility of contrasting different approaches in their regulation.

The development of the economy requires the subjects of relations developing in commodity markets to use a variety of legal and organizational forms aimed not only at protecting competition, but also at ensuring it. It is important to define the scope and powers of public administration entities in the field of market relations, as well as to establish the variety of forms and methods of government regulation used in this area.

The current state of development of economic relations is characterized by the widespread use of measures to implement the function of protecting economic competition by the state. The scientific literature justifiably notes that the development of the economy makes state regulation and the establishment of measures to ensure fair competition increasingly in demand, which is of great importance not only for the development of economic relations, but also for the financial security of the state¹. It is pointed out that in countries with market economies, the state protects competition through antitrust measures. Measures to enhance the role of the state in regulating key economic and financial institutions are also being taken in the Russian Federation². How sensitive a change in the regulation of competition protection issues can be for businesses, not only in Russia, but also in foreign countries, we can see by the example of changes in concentration thresholds and the scope of calculating turnover when controlling economic concentration, which caused a lively and acute market response in Israel, for example³.

Within the framework of the administrative and legal regulation of competition, the issues of ensuring competition in the legal literature are practically not covered, with the exception of a small number of works devoted to state antimonopoly regulation in terms of creating a competitive environment. To date, the situation has not changed much. The issues of legal regulation of competition in the Russian Federation are studied in terms of protection, support, development, assistance, but not ensuring competition, which should be considered as a general concept in relation to all of the above.

¹ Bozhenok S.Ya. Theoretical and legal foundations of the regulation of the revenue system of state and local budgets of the Russian Federation: Monograph. Moscow, 2011

² Arzumanova L.L., Boltinova O.V., Bubnova O.Yu., and others. Legal regulation of financial control in the Russian Federation: problems and prospects: Monograph/ ed. by E.Y.Grachev, Moscow, 2013.

³ <https://globalcompetitionreview.com/article/1195786/israel-merger-amendments-could-lead-to-uncertainty-lawyers-say> Date of request 02.8.2019 г.

Administrative and legal support of competition is an independent type of administrative and public activity, since it differs significantly from other common legal means of influencing executive authorities on the behavior of subjects of administrative legal relations in the field of economics, including in competitive legal relations in commodity markets. In essence, its essence lies not only in the application by the competent authorities of the necessary measures of legal protection and restoration of violated rights, freedoms and legitimate interests of individuals and legal entities provided for by current legislation, but also has the focus of creating a favorable competitive environment (environment), prevention of compliance with measures aimed at its maintenance, suppression of violations of established norms and rules of conduct and monopolization of the relevant commodity markets.

At the State level, it is necessary to recognize that among the currently existing incentive, restrictive and protective measures, measures of administrative and legal protection of competition are of fundamental importance. Whereas the development and stable existence of a market economy in Russia is possible only in conditions of economic relations based on state support for competition and measures that stimulate the existence and development of a competitive environment. At the same time, the established administrative and legal forms of competition protection have different accents of state regulation and are aimed only at restoring violated rights and interests, including in oligopolous and monopolized commodity markets.

At the same time, in essence, issues of not only protection, but also ensuring competition from the state in general are given great importance both in the context of economic development and in the interests of ensuring national security, which has been consolidated in regulatory acts defining the strategic goals and objectives of the state⁴. This is the case in the National Security Strategy of the Russian Federation, approved by Decree of the President of the Russian Federation dated July 2, 2021 № 400 emphasizes

⁴ Decree of the President of the Russian Federation dated 07/02/2021 No. 400 «On the National Security Strategy of the Russian Federation». Collection of Legislation of the Russian Federation, 05.07.2021, No. 27 (Part II), Article 5351; Decree of the President of the Russian Federation dated 13.05.2017 No. 208 «On the Strategy of Economic Security of the Russian Federation for the period up to 2030»// Collection of Legislation of the Russian Federation, 15.05.2017, No. 20, Article 2902.

that «in the context of stagnation and recession of the world's leading economies, the declining stability of the global monetary and financial system, and the intensification of the struggle for access to markets and resources, the practice of using unfair competition tools, protectionist measures, and sanctions, including in the financial and trade spheres, is becoming increasingly widespread».

At the same time, there is reason to state a certain substitution of concepts when defining strategic goals as an indication of the «development of competition». It seems that in this case we should be talking about «ensuring competition». This approach changes priorities and makes clear the goals and objectives of the government and local governments in the economy, which cannot be limited only to the production of competitive products. Thus, the Strategy of Economic Security of the Russian Federation for the period up to 2030, approved by Decree of the President of the Russian Federation dated 05/13/2017 № 208, noted the increase in «geopolitical instability and instability of the global economy» and «a sharp intensification of global competition». It has been established that the problems of competition and competitiveness of commodity producers have gone far beyond the domestic ones, have acquired international significance and interstate character.

The study of competition issues in market economic relations presupposes the definition of the essence and content of the concept of «competition». It should be noted that the concept of «competition» has relatively recently entered into use in regulating economic public relations, which is due to Russia's transition from a planned to a market economy, follows from the constitutional recognition of private property (Article 35 of the Constitution of the Russian Federation) and the right to freedom of entrepreneurial and other economic activities not prohibited by law (Article 34 of the Constitution of the Russian Federation).

The degree of scientific development of the topic.

With the adoption of Federal Law № 135-FZ dated July 26, 2006 «On Protection of Competition»⁵ (hereinafter – the Law on Protection of Competition), approaches to legal regulation and definition of the concept of competition have changed. The legislator has defined as the purpose of legal regulation not the prohibition of activities aimed at monopolization and unfair competition, but the protection of competition. The formulation of the concept of «competition» has also undergone a change. In Article 4 of the Law on Protection of Competition, competition is not defined as competition, as in the RSFSR Law № 948-1 dated 03/22/1991 «On Competition and Restriction of Monopolistic Activity»⁶, but as competition between economic entities, in which the independent actions of each of them exclude and limit the possibility of each of them unilaterally influencing the general conditions of circulation of goods in the relevant market. the commodity market.

Positive characteristics of this approach of the legislator are expressed in the literature. Thus, according to R.F.Khashukaev, the legal definition of «competition» does not coincide with any definitions proposed in the economic literature, but, at the same time, it seemed to generalize economic approaches to competition, taking positive ones and rejecting dubious provisions in them⁷.

At the same time, the literature notes the need to take into account the social essence of competition and its stimulating importance for entrepreneurial activity, its impact on the pricing process, and a number of other features⁸.

Publicly significant needs, which can be satisfied through the implementation of a competitive mechanism, include the needs for the development of the market for goods,

⁵ Date of appeal Federal Law No. 135-FZ dated July 26, 2006 (as amended on 08.08.2024 No. 275-FZ) "On Protection of Competition". Collection of Legislation of the Russian Federation, 07/31/2006, No. 31 (1 part), art. 3434.

⁶ Vedomosti of the Council of People's Commissars and the Supreme Soviet of the RSFSR, 04/18/1991, № 16, Article 499.

⁷ Khashukaev R.F. State legal regulation of competition in the commodity markets of the Russian Federation. Moscow: RAGS Publishing House, 2003, p. 37.

⁸ See: Demieva A.G. Competition as an incentive for entrepreneurial activity: a legal aspect//Journal of Russian Law. 2017. No. 6. pp.61-68; Puginsky B.I. Contractual regulation of prices for goods //Commercial law. Scientific and practical journal. Moscow, 2012. Vol. 10. No. 1., pp.5-14; Mokronosov A.G., Mavrina I.N. Competition and competitiveness. Yekaterinburg, 2014, p. 12.

works and services, the optimal price-quality ratio of goods and services sold, and the smooth functioning of a socially oriented market economy. It should be noted that attention has been paid to theoretical developments on competition issues in the literature, the multidimensional nature of competition has been noted, and in this regard, its research is reflected in various fields of scientific knowledge.

Thus, in economics, competition is considered as the basis of the market and an incentive for entrepreneurial activity, in law – as a legal institution regulating economic market relations, in public administration - as a system of organizational and legal measures and mechanisms.

For example, when describing the economic essence of competition, V.D.Kamaev points out that the concept under consideration embodies the motivation of economic behavior of people in a market system, while the author considers the market and competition to a large extent as synonyms, noting that «one does not exist without the other».⁹

V.I.Barkhaev, G.P.Zhuravleva, and A.V.Gorshkov study competition in its functional aspect and characterize it as one of the most effective mechanisms of «natural selection» in a market economy¹⁰.

According to I.P.Nikolaeva, the development of competitive relations in the markets is defined as a powerful factor dictating the general conditions of market functioning¹¹. Based on the analysis and characterization of various approaches to the definition of competition in the economic aspect, I. Kirtsner rightly notes that «economists have developed many different models, each of which was labeled with one or another label of competition», thereby confirming the fact that competition is a multifaceted phenomenon encompassing economics, social, legal and other spheres¹².

The variety of areas of legal regulation of competitive relations is noted by K.Yu.Totyev, pointing out that the legislative definition of competition is applicable not only to commodity markets, but also to financial markets, since the current regulation

⁹ Economic theory / edited by V.D. Kamaev. 13th ed., 2010, p. 58.

¹⁰ Economic theory / edited by V.I.Barkhaev, G.P.Zhuravleva, Moscow, 2007, p.326.

¹¹ Economic Theory / edited by I.P.Nikolaeva, 5th ed. Moscow, 2013, p. 150.

¹² Kirtsner I.M. Competition and entrepreneurship. Moscow, 2010, p. 8.

using the concept of competition has legally unified the scope of application of the regulatory legal regulation of competition protection in relation to all commodity markets¹³.

A.Yu.Kinev considers the system of administrative and legal protection of competition as a set of interrelated administrative and legal means used to prevent and suppress violations of antimonopoly legislation, including judicial review of cases of administrative offenses in the field of competition protection, control activities of antimonopoly authorities, actions of business entities aimed at protecting their rights and interests in the field of competition protection. areas of competition. Russian competition policy includes incentive, restrictive, and protective measures, with the current predominance of administrative and legal competition protection measures. Further improvement of competitive relations in Russia, according to this author, should be based on measures that stimulate the development of competition, and administrative and legal protection of competition should be developed in the most monopolized commodity markets¹⁴.

Gabov A.V. considered the issues of supporting competition, believing that competition, support for competition, prohibition of economic activities aimed at monopolization, prohibition of economic activities aimed at unfair competition are phenomena related to each other. Moreover, support for competition, in the author's opinion, is a concept disproportionately broader than just the result of the implementation of these two prohibitions, such support is provided through the application of a complex set of not only these, but also other prohibitions, incentive measures (legal incentives), etc.¹⁵

¹³ Totyev K.Y. Unification of the antimonopoly legislation of Russia //The laws of Russia: experience, analysis. practice. 2007. No. 6. p.22.

¹⁴ Kinev A.Y. Administrative and legal protection of competition: problems and ways of improvement: abstract of the dissertation. ... doct. jurid. Sciences., Moscow, 2014. – 329 p.

¹⁵ A. Gabov, A.V. Competition as a legal value // Competition in a market economy: the limits of freedom and restrictions: a monograph / A.A.Amangeldy, O.A.Belyaeva, A.N.Varlamova et al.; ed. by A.V.Gabov, -M.: IZISP, Jurisprudence, 2016. -384 p.

Sukhorukov A.S. defined competition as an object of constitutional and legal regulation, understanding it as a system of basic social relations that arise between the state and business entities, within which, on the basis of constitutional and legal norms, the state undertakes obligations to create conditions for the protection and development of competition, which implies a subjective right to competition and the possibility of his protection by the state. The author believes that the constitutional principle of competition support has an independent legal significance, determines the implementation of state competition policy in two directions: protection and development of competition and advocates the adoption of the law «On Competition Support»¹⁶.

According to Lobanovsky P.I., the role of the state in the legal regulation of competition is to create a business regime in which the controlling effect on production and consumption is mediated by the controlling effect on the competitiveness of producers of socially useful goods¹⁷.

Varlamova A.N. substantiates in the sphere of economic activity the need for legal assistance to the development of competition, which includes a set of legislative measures that ensure the emergence, development and support of competition, as well as the legal means used by business entities in the formation and implementation of a competitive strategy, believing that restrictive measures and measures to protect competition are secondary compared with incentive measures. of a specific nature, as well as special measures applied in certain sectors of the economy¹⁸.

Pisenko K. A. considers the issues of competition regulation from the point of view of the administrative and legal balance of the public interest in competition protection and other public and private interests in the field of antimonopoly regulation¹⁹. The author notes that the principle of ensuring competition in commodity markets, which is natural

¹⁶Sukhorukov A.S. Constitutional and legal regulation of competition in the Russian Federation: abstract of the dissertation of the cand. jurid. sciences. Yekaterinburg, 2010.

¹⁷ Lobanovsky P.L. Administrative restrictions on competition in the commodity markets of the Russian Federation: abstract of the dissertation for the degree of Candidate of Law. Tyumen, 2006 – 32 p.

¹⁸ Varlamova A.N. Legal assistance to the development of competition in commodity markets: abstract of the dissertation. ...doct. jurid. Sciences. Moscow, 2008.

¹⁹ Pisenko K. A. Administrative and legal support of the balance of interests in the field of antimonopoly regulation in the Russian Federation: dis. ... Doctors of Law. sciences: -Moscow, 2018. 497 p.

in public law, including administrative antimonopoly law, does not receive a strict legal binding to legal means of protecting competition, and the gap opens up space for departmental subjectivity in decision-making²⁰.

Bozhenok S.Ya. points out the intersectoral nature of the problems in the competitive sphere caused by the lack of a specific plan for the implementation of the task of developing competition and improving antimonopoly policy, the solution of which requires a systematic approach involving specialists from various branches of law: civil, administrative, financial, criminal, etc. In these conditions, an effective state-legal mechanism for ensuring fair competition is needed, including appropriate legal and institutional components based on a comprehensive document defining approaches to organizing work on the protection and development of competition, its priorities, as well as system measures to be implemented²¹.

Istomin V.G. believes that the subject of competition law as a system of norms should include not only relations to protect competition, but also relations to create conditions for its implementation and development, i.e. regulatory relations to ensure the process of competition. The author, proceeding from the fact that the purpose of competition protection is to restore the normal state of certain relations, the suppression of violations of the rights and legitimate interests of subjects presupposes the existence of positive regulation of relevant relations within the framework of competition law as an independent institution (sub-institution) for ensuring and developing competition, including both general provisions concerning certain principles of entrepreneurial activity and the specifics of transactions by individuals, occupying a dominant position, bidding and other competitive methods of concluding contracts, control over economic concentration, pricing, some other norms of civil legislation, as well as provisions concerning the specifics of ensuring competition in certain areas of the economy²².

²⁰ Competition as a legal value // Competition in a market economy: the limits of freedom and restrictions: a monograph / A.A.Amangeldy, O.A.Belyaeva, A.N.Varlamova et al.; ed. by A.V.Gabov, -M.: IZISP, Jurisprudence, 2016. -384 p.

²¹ Bozhenok S.Ya. Legal regulation in the field of competition protection // Journal of Russian Law. 2017. No. 1. pp. 24-29.

²² Istomin V.G. Competition as a phenomenon of public life, an object of legal support and protection // Actual problems of Russian law. 2023. No. 11. pp. 97-110.

M.A.Egorova²³ believes that a number of articles of the Code of Administrative Offences of the Russian Federation dated 12/30/2001 № 195-FZ²⁴ (hereinafter referred to as the Administrative Code of the Russian Federation) explicitly provide for the establishment of special administrative and legal regimes regarding the regulation of competitive relations, in particular, regulate the administrative and legal consequences of antimonopoly violations. Although in this case we are talking about a set of administrative and legal means that make up the administrative legal regime for ensuring competition, as its component parts.

Baidarov A.D. considers issues of administrative and legal support for competition, as regulated by the norms of administrative law and carried out by authorized bodies and organizations of the process of using administrative and legal mechanisms of influence on participants in legal relations, aimed at ensuring an adequate level of the competitive environment and the number of business entities, the organization of state control over the activities of natural monopolies and economic concentration, protection of competition, stimulation of business entities to participation in competitive procedures, in order to ensure the economic development of the country²⁵.

Borzilo E.Y. substantiates that necessary and sufficient antimonopoly restrictions on the autonomy of the will of economic entities should be introduced by the legislator in order to achieve two main goals: to create clear and understandable rules for conducting business, which will allow a bona fide business entity to carry out current and plan future economic activities, as well as to support and develop competition²⁶.

Competition issues are considered in the scientific literature in both economic and legal aspects, and competition itself, as the basis of a market-type economy, has various institutional and functional manifestations in the economic, social and legal spheres. This

²³ Egorova M.A. Civil law consequences of violations of antimonopoly legislation: a monograph. Moscow: Justicinform, 2020. 408 p.

²⁴ Collection of legislation of the Russian Federation. 2002. No. 1. (part I). Art. 1.

²⁵ Baidarov A.D. Administrative and legal bases of competition support in the Russian Federation: abstract of the dissertation. ... kand. jurid. Sciences., Moscow, 2021.

²⁶ Borzilo E.Y. The system of legal antimonopoly restrictions on entrepreneurial activity: abstract of the dissertation. ... doct. jurid. nauk., Moscow, 2022.

is due to the complex nature of the legal regulation of competitive relations in the field of economics and the different nature of the law governing it: private and public, as well as methods of legal regulation and public administration. Taking into account the range of subjects of market relations, their goals and needs, through civil and administrative legal methods, managerial influence on public relations in commodity markets is ensured, and the goal is achieved not only to protect, but also to ensure competition, which has a broader set of measures, goals, objectives and their corresponding forms, methods and mechanisms of influence on the economic sphere by the state. The changing economy in Russia and the system of economic relations at the international level have actualized the need to identify new theoretical and scientific approaches in the study of the complex legal institution of competition and the definition of administrative and legal forms and methods of ensuring it. The definition of the nature, essence and nature of competition makes it possible to identify the range of social relations that develop in commodity markets in the sphere of executive power functioning, which are the subject of administrative and legal regulation. The dual private-law and administrative-legal nature of the regulatory legal regulation of competitive relations is determined not only by the different needs of commodity market participants, but also by the goal-setting of regulatory impact, the peculiarities of the subject composition of relations, which is reflected in the establishment of their legal status.

The theoretical basis of this dissertation research consists of the works of the authors in the field of administrative and legal regulation: A.B.Agapov, S.S.Alekseev, D.N.Bakhrakh, G.S.Belyaeva, A.S.Dugentz, P.I.Kononov, S.M.Zyryanov, V.B.Isakov, A.F.Nozdachev, L.L.Popov, B.V.Rossinsky, P.P.Serkov, Yu.P.Solovey, Yu.N.Starilov, A.I.Stakhov, M.S.Studenikina, Yu.A.Tikhomirov and others; in the field of legal regulation of competition: E.Y.Borzilo, V.A. Belova, S.V.Belykh, A.N.Varlamova, A.V.Gabov, G.A.Gadzhiev, M.A.Egorova, V.I.Eremenko, Z.M.Kazachkova, A.Yu.Kinev, N.I.Klein, D.A.Petrov, K.A.Pisenko, D.I.Seregin, A.Y.Sokolov, K.Yu.Totyeu, G.F.Shershenevich, and others.;

The works of E.A.Artemyeva, A.I.Bagandov, L.N.Borisova, P.M.Vladimirova, K.L.Voznesenky, D.A.Gavrilov, I.N.Degtyar, A.M.Evsikov, T.Y.Zaripova, S.A.Karlova,

M.V.Kovalkova, A.V.Kozhinsky, K.S.Krotov, P.L.Lobanovsky, P.V.Kameneva, S.N.Kondratovskaya, A.O.Maslov, A.A.Ovodov, S.A.Paraschuk, D.A.Plekhanov, A.Y.Sokolov, A.S.Sukhorukov, Yu.G.Tabastaeva, S.S.Tatarinova, E.E.Titov, L.A.Khanchukayeva, E.S.Khokhlov, O.V.Shalman, I.A.Shkaredenok, I.S.Yanovich were devoted to the issues of competition protection. The works of A.D.Baydarov, G.Y.Gulyaev, V.I.Eremenko, R.F.Khashukaev were devoted to the support of competition.

The economic basis of competition determined the interdisciplinary nature of the research and required the use of the works of Russian and foreign economists such as S.B. Avdasheva, B.D.Baker, I.V.Knyazeva, V.I.Kovacich, A.A.Kurdin, A.E. Shastitko, N.S.Pavlova, F.A.Hayek, A.G.Tsyganov and others.

The object of the research is the social relations that develop in the sphere of formation and development of market and competitive relations in the mechanism of ensuring competition. When identifying a group of public relations regulated by the norms of administrative law, one should proceed from their inherent public law character.

The area of origin of these public relations is the sphere of functioning of the executive branch and the exercise by authorized bodies of executive-administrative, supervisory and jurisdictional powers.

The subject of the research is the legal norms governing public relations in the field of functioning and ensuring competitive relations in a market economy, doctrinal approaches to identifying the features of administrative and legal regulation of entrepreneurial and other economic activities not prohibited by law in the field of application of antimonopoly legislation and ensuring competition.

The purpose and objectives of the dissertation research. The purpose of the research is to develop and systematically substantiate the theoretical foundations and procedural procedures of the administrative and legal regime for ensuring competition in commodity markets in the Russian Federation, as a set of administrative norms, forms and methods regulating public relations in the field of the emergence and development of competitive relations in the economy of the Russian Federation, substantiate the theoretical and methodological aspects and the regulatory establishment of administrative

and the legal regime for ensuring competition in the commodity markets in the Russian Federation.

In accordance with the set goal, a range of tasks has been defined and solved, the theoretical solution of which is the essence of the dissertation research:

- to reveal the political, legal and social context of the administrative and legal regulation of competition in the Russian Federation; - to substantiate the establishment of an administrative and legal regime for ensuring competition in the commodity markets in the Russian Federation;
- to study the peculiarities of the formation of the administrative and legal regime for ensuring competition in the commodity markets in the Russian Federation;
- to consider the impact of foreign experience on ensuring competition in the commodity markets in the Russian Federation; - to study the changing approaches to ensuring competition in the Russian Federation in the context of modern challenges;
- analyze the institutional aspects of ensuring competition in the commodity markets;
- to determine the place of the legal institution of competition protection in the commodity markets in the Russian legal system; - to reveal the features of public relations in the field of competition as an object of legal regulation;
- analyze the system and nature of legal acts regulating public relations in the field of competition; - to substantiate the essence and content of the institution of legal regulation of competition in commodity markets;
- to characterize the system of bodies ensuring competition in the commodity markets in the Russian Federation;
- to reveal the essence and importance of competition, fair competition and a competitive environment in the legal mechanism for ensuring competition in the Russian Federation;
- to substantiate the functional aspects of ensuring competition in the commodity markets;
- to reveal the relationship between the concepts of "ensuring competition" and "protecting competition" in the commodity markets;

- to formulate the concept of an administrative and legal mechanism for ensuring competition in the commodity markets in the Russian Federation;
- to investigate the essence and importance of state control in the mechanism of ensuring competition in commodity markets; - to develop a definition of the concept of "ensuring competition" in the Russian Federation and the scope of its implementation;
- to characterize the essence and content of the administrative and legal regime for ensuring competition in the commodity markets in the Russian Federation;
- to reveal the specifics of the forms and methods of the administrative and legal regime for ensuring competition in the commodity markets in the Russian Federation;
- to determine the structure of the administrative and legal regime for ensuring competition in the commodity markets.

Methodological basis of the research. The nature of the research determined an interdisciplinary approach to the analysis of the problem under study and the use of both public and private legal methods of cognition, taking into account the complex nature of competition as a socio-legal and economic phenomenon. Various methods were used to achieve the set goal and solve the research tasks.

Of decisive importance were general philosophical methods, including dialectics and general scientific methods such as analysis and synthesis, deductive and inductive, system-structural.

When writing the dissertation, a set of methods of scientific knowledge, philosophical, general scientific and private scientific methods were used.

It was important to use the system-structural method, as well as private scientific methods: historical, sociological, functional, comparative legal, formal legal, method of interpretation, which, using the rules of legal technique and formal logic, allowed us to study and summarize in detail the existing experience of regulatory legal regulation of various aspects in the field of formation and development of legal fundamentals of the market economy in Russia and ensuring competition as a condition for the existence of a free market and trade turnover, to substantiate the author's vision of the essence and significance of competition, the status of public management entities that provide the legal and organizational foundations for competition.

The regulatory framework of the study was as follows: The Constitution of the Russian Federation, federal constitutional and federal laws, Decrees of the President of the Russian Federation, Resolutions and Orders of the Government, acts of other executive authorities and state authorities of the subjects of the Russian Federation, as well as the practice of functioning of state authorities of the Russian Federation and a number of foreign countries.

The empirical basis of the study was statistical data, law enforcement and judicial practice, information on the forms and methods of work of public authorities, and data from sociological research. The scientific significance of the work is determined by the achieved goal and the solved research objectives.

The main provisions submitted for defense are of scientific novelty:

1. It is proved that the politically significant goals contained in the acts of the state have lost their systemic character and social orientation towards the development of the commodity market, and the constitutionally established goal of public administration of «*ensuring competition*» in the economy has been replaced by a private goal of «*protecting competition*».

In this regard, a theoretical justification of the concepts and categories used in the implementation of legal regulation of relations in the field of competition has been developed and the relationship between the concepts of «*ensuring competition*» and «*protecting competition*» has been determined.

Competition protection is the activity of authorized state bodies aimed at preventing and suppressing monopolistic activities and unfair competition, as well as preventing, restricting, and eliminating competition by federal executive authorities, state authorities of constituent entities of the Russian Federation, local governments, other bodies, organizations, the Central Bank of the Russian Federation, and state extra-budgetary funds.

Ensuring competition is the activity of authorized state authorities and local governments aimed at creating conditions for a favorable competitive environment (pro-competitive environment) in the commodity market, including by means of competition protection. Each of these concepts indicates independent types of government activities,

different objects and subjects of regulation, despite the fact that these concepts are interrelated (paragraphs 14, 15, 28 of the Passport of scientific specialty 5.1.2 «Public law (State law) sciences»).

2. The necessity of replacing the concept of competition protection with the concept of ensuring competition, providing for the creation of a system of regulation of legal relations implemented in the form of an administrative and legal regime, is substantiated.

The concept of competition protection is a system of views and methods of regulating relations in the field of competition, based on the use of measures aimed at suppressing restrictions on competition and unfair competition, based on antimonopoly legislation, allowing the use of measures to stimulate and (or) develop competition.

The concept of ensuring competition is a system of views and ways of regulating public relations in the field of competition aimed at creating favorable conditions and improving the competitive environment, including through the protection of competition, based on competition law (competition law).

It has been revealed that the legal basis for the implementation of the concept of ensuring competition is only fragmentary in the Law on Protection of Competition, which regulates mainly relations related to the protection of competition, which requires the systematization of competition legislation (paragraphs 14, 15, 16, 17, 28 of the Passport of Scientific specialty 5.1.2 «Public Law (State law) science»).

3. It is proved that along with the regulation of competition protection, there is a need for state regulation of public relations arising in the field of economics, providing for the creation of conditions for fair competition through the formation, maintenance, restoration and development of a competitive environment that determines the effectiveness of entrepreneurial activity and other economic activities not prohibited by law based on the provisions of Articles 8, 34, 71, 72, 74, 75.1, 132 of the Constitution of the Russian Federation principles:

- competition support;
- freedom of entrepreneurial activity;
- prohibition of activities aimed at monopolization and unfair competition;
- the inadmissibility of establishing economic borders within the State;

- ensuring sustainable economic growth of the country and improving the well-being of citizens. This requires the inclusion in the sphere of ensuring competition of bodies that manage the economy at the federal, regional and municipal levels in order to form, support and develop a competitive environment (paragraphs 2, 4, 8, 14, 28 of the Passport of scientific specialty 5.1.2 «Public Law (State law) sciences»).

4. The author's definition of the administrative and legal regime for ensuring competition has been developed, which is a regime of social and economic importance, regulated by the norms of administrative law and implemented in administrative and legal forms in the sphere of the functioning of executive power.

The administrative and legal regime for ensuring competition in commodity markets has its own institutional and functional structures and is provided by the norms of administrative legislation regulating public relations in the field of competition (paragraphs 15, 16, 17, 18, 19, 28 Passports of the scientific specialty 5.1.2 «Public law (State law) sciences»).

5. It is proved that the creation of an administrative and legal regime for ensuring competition requires a regrouping of the institutional and functional foundations of competition regulation, including expanding the range of subjects of competition by including economic regulators at the federal level, authorities of the subjects of the Russian Federation and local governments in the context of creating favorable conditions for expanding production capacities and sales volumes (paragraphs 8, 14, 15, 28 Passports of the scientific specialty 5.1.2 «Public law (State law) sciences»).

6. It is revealed that the formation of an administrative and legal regime for ensuring competition entails a change in the ratio of regulatory regulation aimed at improving the competitive environment and protecting competition. The necessity of changing the concept of regulatory legal regulation of the sphere of competitive relations through the adoption of a legislative act providing for the regulation of public relations in the field of competition, including issues of competition protection and improvement of the competitive environment, is substantiated.

The formation of an administrative and legal regime for ensuring competition precludes the arbitrary choice of law enforcement objectives by antimonopoly authorities

and other authorities based on the priorities of economic regulation and measures to improve the effectiveness of public economic management (paragraphs 14, 15, 16, 17, 18, 28 Passports of the scientific specialty 5.1.2 «Public law (State law) sciences»).

7. The concept of creating an administrative and legal regime for ensuring competition as a subsystem of economic regulation has been developed, designed to create a favorable competitive environment as a condition for free development and increased economic efficiency.

The author's concepts of «competitive environment», «favorable competitive environment», and «fair competition» are proposed, which are absent from the antimonopoly legislation and are not defined doctrinally.

The competitive environment is understood as a set of conditions that determine the possibility of economic entities operating in the commodity market, provided by the possibility of competition based on a set of factors affecting the state of competition in the commodity market (the presence of fair competition, foreign trade barriers, the development and accessibility of infrastructure, the availability of financial resources, and so on).

A favorable competitive environment (pro-competitive environment) is a characteristic of the qualitative state of the competitive environment in the commodity market in the absence of restrictions on competition and unfair competition. Fair competition is a state of competition between business entities in the commodity market, characterized by the absence of restrictions on competition, infringement of consumer interests and unfair competition (paragraphs 17, 28 of the Passport of scientific specialty 5.1.2 «Public law (State law) sciences»).

8. It is proved that the main purpose of ensuring competition is the formation, restoration, maintenance and improvement of the competitive environment through the implementation of an administrative and legal mechanism for ensuring competition.

The administrative and legal mechanism for ensuring competition is a set of administrative and legal measures to influence the general conditions of circulation of goods on the commodity market, market participants and consumers, as well as authorities and their officials in order to create a favorable competitive environment.

It is revealed that the methods used in the administrative and legal regime of ensuring competition differ depending on the type of competition: competition in commodity markets and competition at auction, thereby determining the difference in the concepts of ensuring competition in the commodity market and ensuring competition at auction.

Ensuring competition in the commodity market is an activity aimed at creating, maintaining and improving a favorable competitive environment (pro-competitive environment) in the commodity market.

Ensuring competition at auctions is an activity aimed at achieving their goals in the absence of violations of the procedure and rules of bidding, which means selecting a bidder with the best conditions for a competition or the best price for an auction and concluding an agreement (contract, government contract) with him (paragraphs 17, 28 of the Passport of Scientific specialty 5.1.2 «Public Law (State law) sciences»).

9. It has been revealed that antimonopoly legislation does not specifically single out the principles of legal regulation of the administrative and legal regime for ensuring competition, however, its analysis indicates that it basically prohibits a person or several persons who have the opportunity to unilaterally determine the conditions of circulation of goods on the commodity market, restrict, restrain, prevent, or eliminate competition in which- in any form, including the prohibition to set and maintain monopolistically high and monopolistically low prices for goods, to withdraw goods from circulation, to impose contractual terms and other conditions on the counterparty, including a ban on agreements, coordinated actions, coordination of economic activities that restrict competition, and others.

The necessity of making a transition from the protection of competition, as well as the rights and legitimate interests of individuals, to the protection of public interest in the form of fair competition and a competitive environment in order to exclude the possibility of unilaterally influencing the general conditions of circulation of goods on commodity markets (paragraphs 15, 17, 18, 28 of the Passport of Scientific specialty 5.1.2 «Public Law (State Law) sciences»).

10. It is proved that the result of the establishment of an administrative and legal regime for ensuring competition is the transition from protection to ensuring competition and a competitive environment.

It has been revealed that the lack of regulatory legal regulation of the competition mechanism entails its independent creation by a law enforcement officer based on the need to increase the effectiveness of his activities, taking into account the constitutional principles of ensuring human and civil rights and freedoms, the formation of legal statehood and a high level of legal culture of society and the individual (paragraphs 13, 14, 15, 17, 28 of the Passport of scientific specialty 5.1.2 «Public law (State Law) sciences»).

11. The need to clarify the composition and status of federal executive authorities, authorities of constituent entities of the Russian Federation, local governments, other bodies, organizations and the Central Bank of the Russian Federation as subjects of administrative and legal regulation of public relations in the field of competition based on their place and role in improving the competitive environment in commodity markets is substantiated (paragraphs 14, 15, 17, 24, 28 Passports of the scientific specialty 5.1.2 «Public law (State Law) sciences»).

12. It is proved that the operation of the administrative and legal mechanism for ensuring competition as an element of economic regulation and the presence of conflicts, gaps and legal uncertainties in the regulatory legal regulation of competition, the existence of issues whose resolution does not fall within the competence of federal executive authorities, requires the creation of a system for preliminary assessment of the consequences of decisions taken in the field of competition on the economy and decision-making at the level of the Government of the Russian Federation, for example, in the normative definition of the strategy for the development of competition as part of the economic strategy of the Russian Federation (paragraphs 14, 15, 17, 28 of the Passport of scientific specialty 5.1.2 «Public Law (state Law) sciences»).

13. The author's definition of the system of ensuring competition as a set of subjects and administrative and legal measures and methods of influencing the competitive environment has been developed. The article substantiates their division into

administrative and legal measures to protect competition and measures to improve the competitive environment aimed at changing the business environment and behavior of business entities, including stimulating their pro-competitive behavior, which can be applied both in the case of antimonopoly offenses and in their absence.

The incorrectness of applying the concepts of stimulation and development of competition in the field of competition has been revealed due to the fact that stimulation is the motivation of competition as a process of competition between economic entities in the commodity market, whereas the development of competition is a movement towards a better state of the competition process. As a result, in such an essential sense, they can lead to the elimination of competition when using a limited resource, when bidding, obliging the sale of goods on the stock exchange, and in other cases (paragraphs 14, 15, 17, 28 of the Passport of scientific specialty 5.1.2 «Public Law (State Law) sciences»).

The theoretical and practical significance of the work.

The theoretical provisions of the dissertation substantiating the concept, content and essence of the administrative and legal regime for ensuring competition can be used as the basis for further scientific research on the theoretical foundations of competitive relations in Russia and used to develop the science of public law and, in particular, the administrative law of Russia.

The practical significance of the work is due to the proposals contained in the provisions submitted for defense, as well as the opportunity to use the dissertation materials in the educational process when reading training courses in administrative, competition law, and business law, as well as a special training course on administrative and legal competition, as well as in order to improve legal regulation.

Approbation and reliability of the research results. The main provisions of the dissertation are reflected in 134 publications by the author, 3 of which are published in publications indexed by international databases, 5 in scientific publications indexed in the RSCI database, 74 in publications included in the List of publications recommended by the Higher Attestation Commission of Russia for the publication of the main scientific results of the dissertation for the degree of candidate (doctor) sciences.

The developments were implemented by the author in the monographic studies «Responsibility of authorities and their officials in the field of competition protection» (Moscow: Statute, 2014), «Collective dominance: issues of theory and practice» (Moscow: Prospect, 2021), «Legal support of competition in the Russian Federation» (Moscow: Prospect, 2025).

The provisions and conclusions of the dissertation research were used by the author when teaching training courses.: «State and Business», «Antimonopoly Legislation», «Legal support of Competition in the Russian Federation» and «Competition Law» for bachelors and masters of the Higher School of Law Department of the Institute of Public Administration and Management, as well as the course «Antimonopoly Regulation and Protection of Competition in the Russian Federation» for undergraduates of the Faculty of Public and Municipal Administration of the Institute of Public Administration and Management of the Russian Presidential Academy of National Economy and Public Administration in 2021-2025. The provisions and conclusions of the dissertation research can also be used in teaching courses «Civil Law», «Business Law», «Commercial Law», «Administrative Law».

The results of the study have also been reported at more than 30 international and Russian scientific and practical conferences. The structure of the dissertation is determined by the objectives of the research. The dissertation consists of an introduction, four chapters, including 14 paragraphs, conclusions and a list of references.