

FEATURES OF THE LEGAL REGULATION OF CARTEL AGREEMENTS

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Annotation. The article examines the legal nature and regulatory specifics of cartel agreements, which represent one of the most socially dangerous violations of antitrust legislation. The authors analyze theoretical approaches to defining the concept of a cartel, tracing the historical evolution of anti-cartel regulation both in Russia and internationally. Particular attention is paid to the contemporary stage of legal development, characterized by the growing complexity of collusive practices and the increasing use of digital technologies in their detection. The study highlights the interplay between the economic foundations of cartel behavior and its legal qualification, emphasizing the necessity of combining administrative, criminal, and economic enforcement mechanisms. A separate focus is placed on the legislative amendments adopted in the Russian Federation in 2022, aimed at strengthening antimonopoly policy, enhancing procedural instruments of the Federal Antimonopoly Service, and expanding the application of digital analytical tools, including algorithms for identifying price anomalies and patterns of coordinated bidding behavior. The paper underscores the importance of transparency in public procurement, international cooperation, and modernization of compliance requirements. The authors conclude that current regulatory trends are shifting toward preventive and data-driven identification of cartel practices, which significantly increases the effectiveness of competition protection and contributes to the stability and long-term sustainability of the Russian market economy.

Keywords: cartel, cartel collusion, regulation of cartel collusion, digital methods of cartel detection.

Financing information: this research received no external funding.

For citation: Kulik, E.I., Kolomiytseva, K.A. (2025). Features of the Legal Regulation of Cartel Agreements. Public administration and law, 3(07), 246-259.

ОСОБЕННОСТИ ПРАВОВОГО РЕГУЛИРОВАНИЯ КАРТЕЛЬНЫХ СГОВОРОВ

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Аннотация. Статья посвящена исследованию правовой природы и особенностей регулирования картельных сговоров как одной из наиболее опасных форм нарушения антимонопольного законодательства. Авторами рассмотрены теоретические подходы к определению понятия «картель», проанализированы основные этапы становления антикартельного регулирования в России и за рубежом, а также выделены ключевые тенденции его развития в условиях цифровизации экономики. Раскрыта взаимосвязь между экономической природой картельных соглашений и их правовой квалификацией, обоснована необходимость комплексного применения административных, уголовных и экономических мер воздействия. Особое внимание уделено реформам антимонопольного законодательства Российской Федерации 2022 года, направленным на повышение эффективности борьбы с картелями, внедрение цифровых технологий анализа и автоматизированного выявления признаков антиконкурентных соглашений. Отмечается усиление роли Федеральной антимонопольной службы, развитие международного сотрудничества и повышение прозрачности процедур государственных закупок. Сделан вывод, что современное регулирование картельных сговоров ориентировано на предупреждение и превентивное выявление правонарушений посредством интеграции цифровых инструментов и аналитических методов, что позволяет повысить эффективность защиты конкуренции и обеспечить устойчивость рыночной экономики России.

Ключевые слова: картель, картельный сговор, регулирование картельных сговоров, цифровые методы выявления картеле.

Информация о финансировании: данное исследование выполнено без внешнего финансирования.

Для цитирования: Kulik E.I., Kolomiytseva K.A., Features of the Legal Regulation of Cartel Agreements. Государственное управление и право. 2025. № 3(07). С. 246-259.

Introduction

The study of the specifics of the legal regulation of cartel agreements is determined by a combination of economic, social and legal factors. First, cartel agreements pose an immediate threat to the competitive environment and economic development. Their consequences are expressed in artificially inflating

prices, limiting production volumes and eliminating market competitors. Such practices reduce the efficiency of the market, hinder innovation and harm the interests of consumers.

Secondly, cartels have a negative social impact. In conditions of collusion, the consumer suffers first of all: the quality of goods and services deteriorates, prices rise, and

the assortment choice decreases. Consequently, countering cartels acquires not only economic, but also social significance, being closely linked to ensuring the principles of social justice.

Thirdly, the problem of cartels has a global dimension. In many countries, they are recognized as the most dangerous form of violation of antimonopoly legislation. International organizations such as the OECD, WTO and the EAEU pay considerable attention to the issues of harmonization of approaches to the identification and suppression of cartel agreements, which underlines the international nature of this problem.

Fourth, Russian law enforcement practice, in particular the activities of the Federal Antimonopoly Service, indicates the need for continuous improvement of legislation aimed at countering cartels. Updating legal norms and strengthening responsibility for participation in such collusion are key areas of legal policy, while scientific understanding makes it possible to identify regulatory gaps and formulate proposals to address them.

Finally, an important factor is the preventive role of law and the formation of legal awareness of participants in economic turnover. The more developed the legal regulation system is and the more actively this issue is studied in the scientific community, the higher the likelihood of developing effective mechanisms to prevent cartel agreements and form a civilized competitive business culture.

Thus, the relevance of the study of the legal regulation of cartel agreements lies in their importance for ensuring the stability of the market economy, protecting the interests of consumers and institutionalizing a fair competitive environment.

Purpose and aim of study

The purpose of this study is to provide a comprehensive examination of the patterns, dynamics, and specific characteristics of the evolution of legal regulation of cartel agreements in the Russian Federation. The research aims to identify how the institutional and normative framework governing anti-cartel enforcement has been shaped over different historical periods, and how it continues to transform in response to economic, technological, and global challenges.

To achieve this purpose, the study seeks to:

Analyze the historical stages of development of anti-cartel legislation in Russia, beginning with the initial emergence of competition law norms and leading to the formation of a modern, systematized regulatory regime.

Determine the key legal mechanisms used to counter cartel agreements and assess their effectiveness in suppressing anticompetitive behavior.

Explore the impact of digitalization on the detection, qualification, and investigation of cartel collusion, with particular attention to the role of economic and mathematical analysis, algorithmic tools, and big data technologies.

Identify existing gaps, contradictions, and practical challenges in legal enforcement, including evidentiary problems and limitations of current liability mechanisms.

Formulate conclusions regarding the direction of further development of anti-cartel regulation, taking into account the amendments introduced in 2022 and the increasing integration of digital methods into law enforcement practice.

Thus, the aim of the study is to deepen the understanding of how Russia's legal system responds to the evolving nature of cartels and to outline the trajectory for improving regulatory

and enforcement approaches.

Research methodology

In the process of studying the legal regulation of cartel agreements, a set of general scientific and private scientific methods of cognition was used. The dialectical method allowed us to consider the legal regulation of cartel agreements as a dynamically developing phenomenon caused by changes in the economy and international relations. The formal legal method was used in the analysis of the norms of Russian legislation, as well as regulations of foreign countries and international organizations regulating the fight against cartels. The historical and legal method has provided a study of the evolution of approaches to countering cartel collusion, starting with the first antitrust acts and ending with modern trends in digitalization. The systematic method allowed us to consider antimonopoly regulation as an integral system, including the norms of substantive and procedural law, the activities of government authorities and judicial practice.

The results of the study and their discussion

The research of both domestic and foreign economic scientists is devoted to the problems of cartel regulation. Thus, among foreign economists, one can single out J. Stigler, one of the first cartel theorists, studied the behavior of firms in conditions of imperfect competition, R. Posner, who developed the concept of «economic analysis of law», including in relation to antitrust cases, J.-J. Laffont and J. Tirol – developed a theory of market regulation, paid attention to anticompetitive agreements, J. Tirol has researched the interaction of firms, antimonopoly policy and cartel mechanisms. R. Bain is the author of works on barriers to entry and the structure of industry markets where cartels play a key role. Russian economists and specialists I.Y. Artemyev [1] author of works on

competition and anti-cartel measures, combines economic and legal analysis, A.Y. Tsarikovsky [2] co-author of scientific publications on the fight against cartels, S.B. Avdasheva [3; 4] analyzed the behavior of firms in the markets, problems of competition and anti-competitive agreements, M.Yu. Shastitko [5] is known for his research in the field of institutional economics and antimonopoly policy, including the analysis of cartels, and E.G. Yasin, who addressed the problems of creating a competitive environment and limiting monopolistic practices.

Thus, cartel research is interdisciplinary in nature: lawyers formulate legal norms and liability mechanisms, while economists study the motivation of companies, the stability of cartels, and the effectiveness of antitrust measures.

The history of cartel agreements is a significant stage in the institutional evolution of market mechanisms. Etymologically, the term «cartel» goes back to the Italian cartello – «sheet of paper», «poster», derived from the Latin charta – «document». It was originally used in English in the 17th century to refer to written agreements between warring states, but since the end of the 19th century, under the influence of the German Kartell, it has become established as an economic term for inter-company agreements aimed at coordinating economic activities.

Industry analysis shows that the prototypes of cartels originated in the medieval mining industry, where cases of sales associations are recorded, for example, the salt syndicate of 1301 in France and Naples (Societas Communis Vendicionis). With the development of industrialization, cartels became widespread: in the late 19th and early 20th centuries, they became widespread in the chemical industry (soda cartel of 1872, associations for aniline dyes) and metallurgy (aluminum, copper and steel cartels).

The reasons for the stability and success of cartel structures in these areas are explained by the need for coordinated actions to stabilize prices, regulate production volumes and distribute sales markets. In the context of rapidly developing industrialization, cartels acted as a tool to reduce transaction costs, prevent destructive price competition and minimize the risks of overproduction. Thus, cartel agreements have become an important element of business practice, at the same time ensuring the optimization of companies' activities and forming objective prerequisites for the subsequent establishment of antimonopoly regulation.

Thus, the effectiveness of cartel agreements was explained by their ability to neutralize competitive pressure by coordinating the actions of participants, which ensured the regulation of supply volumes, maintaining prices at a stable level and the formation of a predictable market environment. Such mechanisms were of particular importance in capital-intensive industries characterized by high production and distribution costs.

Currently, in world practice and in the Russian legal field, cartel agreements are considered as the most dangerous form of anticompetitive agreements. In accordance with article 11 of the Federal Law «On Protection of Competition» (No. 135-FZ dated July 26, 2006), a cartel is an agreement between competing economic entities aimed at restricting competition. A key feature of cartel cooperation is the coordination of the economic behavior of independent market participants, which leads to an artificial distortion of market pricing and resource allocation mechanisms.

Among the typical forms of cartel agreements, the legislator includes: setting or maintaining prices (tariffs); dividing the market according to the territorial principle, sales volumes or

assortment of goods; reduction or termination of production; refusal to conclude contracts with certain counterparties; participation in auctions in the form of coordinated actions. Such practices hinder free competition, undermine the effectiveness of market relations, and harm the interests of consumers.

The regulation of cartel agreements, which were based on prohibitions on their implementation in world practice, began to take shape in the late 19th and early 20th centuries. For example, in Germany and other European countries, the practice of regulating cartels has already existed since the end of the 19th century, and the first legislation against cartel collusion dates back to 1918, when the Law banning Artificial Price Gouging was passed. In the United States, antitrust laws against monopolies and cartels, such as the Sherman Act of 1890, were already being passed at the end of the 19th century.

The reasons for the prohibition of cartel agreements are related to the fact that they:

- they undermine market competition, which leads to higher prices and lower quality of goods;

- infringe on the interests of consumers and hinder the free market;

- they create economic inefficiency and hinder the development of the economy.

After World War II, the international community intensified its fight against cartels as a threat to the free economy. Thus, the prohibition of cartel agreements has become part of the struggle to maintain fair competition and economic development of countries.

Later (in the 20th century), a set of legal and institutional measures was developed by States to effectively suppress the activities of cartel associations.

Firstly, antimonopoly legislation has become a key tool. Many countries have adopted regulations explicitly prohibiting the conclusion of cartel agreements and establishing both administrative and criminal liability for participation in such forms of collusion.

Secondly, the practice of detecting and suppressing cartel collusion by antimonopoly authorities and judicial authorities has become significant. Control over bidding and procurement procedures has become one of the priorities, as it is in this area that cartels most often resort to coordinated actions. Regular investigations and public information about cases of prosecution contributed to the formation of a preventive effect.

Thirdly, the development of international cooperation has become an important area. The transnational nature of many cartels has necessitated the exchange of information between national regulators and the development of coordinated strategies to combat unfair market practices.

Fourthly, control over corruption in public authorities has increased, as cartels often seek to use bribery of officials to maintain their schemes.

Finally, an important element of government policy was the promotion of competition through market reforms and support for small and medium-sized enterprises, which made it possible to curb monopolistic trends and create conditions for the sustainable development of a competitive environment.

Collectively, these measures ensured not only the identification and elimination of existing cartel structures, but also helped to prevent new forms of cartel interaction, which was key to maintaining effective competition and minimizing the negative economic consequences of anticompetitive agreements.

In Russian doctrine and law

enforcement practice, cartel agreements are also considered as an act subject not only to administrative, but also to criminal liability (art. 178 of the Criminal Code of the Russian Federation). Thus, the legislator emphasizes their high social danger, expressed in undermining the foundations of the competitive environment and creating artificial barriers to economic development.

Thus, the essence of cartel agreements in Russian legislation is to recognize them as a systemic violation of the principle of freedom of competition, requiring strict government intervention in order to maintain the balance of the market economy and protect the interests of society.

The evolution of the legal regulation of cartel agreements in Russia took place in several stages, and it can be viewed in a historical and legal context:

The first period when the first steps were taken was 1991-1995, at which stage legal norms on combating monopolism and unfair competition appeared for the first time after Russia's transition to a market economy. Thus, the main act in this area was adopted, the RSFSR Law No. 948-1 dated 03/22/1991 «On Competition and Restriction of Monopolistic activity in Commodity Markets», which established a ban on anticompetitive agreements, although the term «cartel» has not yet been used. The State Committee for Antimonopoly Policy of the Russian Federation (the forerunner of the Federal Antimonopoly Service) was also established.

In the second period, the antimonopoly norms were clarified - 1995-2005: amendments were made to the 1991 law, the norms were gradually specified. The first attempts to consolidate responsibility for coordinated actions also appeared in the legislation, but in practice it was

extremely difficult to prove cartel agreements. And during this period, Russia began to adapt its legislation to international standards (the experience of the EU and the USA).

The third period was marked by the adoption of the Federal Law «On Protection of Competition» No. 135-FZ (2006), which became a turning point, as the term «cartel» was explicitly introduced for the first time, specific types of cartel agreements (on prices, production volumes, market division, abandonment of counterparties, bidding) were fixed, and regulations on By «coordinated actions» of market participants, the powers of the FAS of Russia have been significantly expanded.[6]

The fourth stage is characterized by the development and tightening of regulation (2006-2015). Anti-cartel amendments («first-fourth antimonopoly packages») appeared [11]:

- criminal liability for cartels has been introduced (Article 178 of the Criminal Code of the Russian Federation), «lenience» programs have been developed (exemption from liability for participants who voluntarily declared collusion);

- the FAS's authority to conduct inspections, including “sudden” ones, has been clarified (dawn raids).

The legislation also included norms

that take into account the specifics of public procurement (especially after the entry into force of Law No. 44-FZ on the contract system).

At the present stage (2016–present), the emphasis is on digitalization and international coordination:

- FAS applies economic and mathematical methods to identify price anomalies at auctions;

- approaches to regulation of algorithmic cartels (collusion using digital platforms and AI) are being developed;

- Russia participates in the exchange of experience within the framework of the EAEU, BRICS and the OECD.

- responsibility for violations at auctions has been tightened, since most of the identified cartels account for public procurement.

- There is a discussion about improving criminal liability: punishments are rarely used now due to the difficulties of proving intent [7; 8].

Thus, it is possible to identify several stages in the development of cartel regulation in Russian legislation: from the first norms on unfair competition (1991) to systemic regulation and direct prohibition of cartels (2006), and then to stricter liability and digital detection methods (2010s – 2020s).

Table 1. Stages of development of the legal regulation of cartel agreements in Russia (compiled by the authors)

Таблица 1. Этапы развития правового регулирования картельных соглашений в России (составлено авторами)

Year / period	Regulatory act / event	Key changes and articles of responsibility
1991	The Law of the RSFSR dated 03/22/1991 No. 948-1 «On Competition and restriction of monopolistic activity in commodity markets»	The first consolidation of the ban on monopolistic activity; general rules against anticompetitive agreements (the term «cartel» has not yet been used)
1995-2005	Amendments to the 1991 Law; formation of antimonopoly authorities	Specification of prohibitions on anticompetitive agreements and coordinated actions; adaptation to international standards

Продолжение табл. 2
Continuation of table 2

Year / period	Regulatory act / event	Key changes and articles of responsibility
2006	Federal Law No. 135-FZ «On Protection of Competition»	The term «cartel» has been introduced; specific types of prohibited agreements have been established (in terms of prices, volumes, market division, bidding, etc.); the powers of the FAS have been significantly expanded
2006-2015	Antimonopoly «packages» of amendments; amendments to the Criminal Code and Administrative Code of the Russian Federation	- Criminal liability for cartel agreements has been introduced (Article 178 of the Criminal Code of the Russian Federation) - Administrative liability has been established (Article 14.32 of the Administrative Code of the Russian Federation – anticompetitive agreements, Article 14.33 of the Administrative Code of the Russian Federation – unfair competition) - The Leniency program has been launched
2016-present	Amendments to 135-FZ, FAS practice, development of digital tools	Responsibility for violations at auctions has been tightened (Article 14.32.1 of the Administrative Code of the Russian Federation); active application of economic analysis; attention to algorithmic cartels; strengthening international cooperation (EAEU, BRICS, OECD)

Thus, today the fight against cartels is based not only on antimonopoly legislation (135-FZ), but also on criminal (art. 178 of the Criminal Code of the Russian Federation) and administrative (Chapter 14 of the Administrative Code of the Russian Federation) responsibility.

The current stage of development of antimonopoly legislation in Russia is characterized by increased responsibility for participation in cartel agreements and the active introduction of digital tools to identify them. In the 2010s, amendments were made to the Administrative Code of the Russian Federation (Articles 14.32, 14.32.1), which established increased fines for anti-competitive agreements, especially those related

to state and municipal procurement. Criminal liability under Article 178 of the Criminal Code of the Russian Federation has also received more detailed regulations: sanctions include heavy fines, restriction of liberty and imprisonment for up to 7 years [9]. Thus, the legislator outlined the priority of combating «hard» cartels that undermine the foundations of a market economy.

At the same time, the Federal Antimonopoly Service (FAS of Russia) began to actively apply digital analysis methods. Algorithms for detecting price anomalies, methods of «screening» trades, big data databases and economic and mathematical models are used to track suspicious synchronicity of market participants'

actions. Considerable attention is paid to algorithmic cartels, situations where coordination is achieved through digital platforms and artificial intelligence systems. This requires constant adaptation of legislation to new economic and technological conditions.

It should be noted that the process of improving the regulation of cartel agreements is continuous, as in 2022 the Russian Federation demonstrated significant progress in the development and improvement of antimonopoly regulation. Strengthening State policy in the field of competition protection, implemented through the principle of the inevitability of punishment within the framework of administrative and criminal law, has become an important tool for maintaining the stability and growth of the national economy.

The key area of reform was the changes made to the Federal Law «On Protection of Competition». They were focused on increasing the effectiveness of control over economic concentration, abuse of a dominant position and the conclusion of anticompetitive agreements [10]. In particular, the limits of companies' revenue for antimonopoly control purposes have increased significantly, which has freed small and medium-sized businesses from excessive restrictions and focused regulators' attention on maintaining fair competition.

Special importance in the new version of the legislation is given to the fight against unfair competition, cartel agreements and syndicates. The elimination of such practices is considered as a condition for ensuring equal access to the market, the formation of fair pricing strategies and the creation of a favorable investment climate. This, in turn, helps to strengthen the market structure and increase the attractiveness of the national economy for new participants

and investors. An important social aspect of the reforms is related to strengthening consumer protection against illegal price gouging for essential goods and mass-market products, which directly affects the level of social stability and the quality of life of the population.

New procedures and standards in the field of public and corporate procurement were also introduced in 2022. Among the key innovations are the reduction of order placement methods, automation of procurement processes, and the introduction of electronic document management and inventory management. Mandatory prequalification of procurement participants has become an important tool for increasing the reliability of counterparties, which ensures increased transparency and quality of contract execution [11; 12].

Strengthening the role of the Federal Antimonopoly Service (FAS of Russia) in monitoring and supervising compliance with legislation has become an important factor in creating a healthy competitive environment that stimulates innovative development and economic growth. Collectively, the measures taken have contributed to strengthening business ethics, raising the legal culture of the business community, and creating prerequisites for the long-term sustainability of the Russian market.

Provisions were introduced that significantly limited the economic attractiveness of cartel agreements and increased responsibility for their conclusion [13; 14].

Thus, among the most significant measures introduced into the Russian antimonopoly legislation in 2022, the following can be distinguished.

First, there was a strict ban on coordinated actions between business entities aimed at limiting competition. The law specified three criteria for qualifying such actions: the economic interest of the participants, the public

announcement of actions as one of them, and the absence of objective reasons for their commission on the market. This legal detail has greatly facilitated the process of identifying and proving cartel collusion.

Secondly, administrative and criminal liability for participation in cartels has been strengthened. Significant penalties are provided for legal entities, while fines and the possibility of criminal prosecution are provided for officials. At the same time, measures have been introduced to encourage cooperation: individuals who voluntarily stopped participating or reported the existence of a cartel can expect to be granted immunity.

Thirdly, a system for monitoring and analyzing procurement procedures has been introduced and is actively developing, in particular, the Anticartel state information system using artificial intelligence technologies. This tool allows automated detection of signs of cartel agreements, especially in the field of state and municipal procurement, which helps to reduce the risks of manipulation and increase the transparency of bidding.

Fourth, the role of the Federal Antimonopoly Service (FAS Russia) in identifying and suppressing cartels has increased significantly. The requirements for the evidence base have been strengthened, the practice of systematic monitoring of auctions has been expanded, and interaction with judicial authorities has been intensified, which has made it possible to increase the effectiveness of law enforcement.

Fifth, administrative measures have been fixed, providing for the mandatory execution of FAS regulations to eliminate violations. Failure to comply with these requirements entails penalties, which creates additional costs for participants in cartel agreements.

It should be noted that the current practice of the FAS of Russia shows

that digital analysis methods play a key role in the fight against cartel collusion. For example, during the investigation of the «fuel cartel» in the Krasnodar Territory, an economic and mathematical analysis of price offers at auctions was used [15].

The algorithms allowed us to identify:

Price anomalies – participants offered prices close to the maximum initial contract price, and only minimally reduced it. This indicated a lack of real competition and a pre-agreed strategy of behavior.

Synchronicity of actions – companies applied with the same time intervals and reduction steps, which is typical for cartel agreements. A comparative analysis of large amounts of data (several dozen trades) confirmed that such a «similarity of behavior» could not be accidental.

The identity of errors and document formats – the digital verification of tenders revealed repeated technical errors and the same design style, which also indirectly confirmed the coordination of actions [16].

For these purposes, the FAS uses specialized IT systems for monitoring auctions, databases on contracts (EIS «Procurement»), as well as software solutions for statistical analysis. Such a digital approach makes it possible to identify cartels even at the stage of procurement, and not only after their completion. [17; 18].

Thus, digitalization has strengthened the capabilities of antimonopoly authorities: previously, it was extremely difficult to prove the fact of collusion and required face-to-face inspections, but now big data analysis makes it possible to detect signs of a cartel in an automated mode, significantly increasing the effectiveness of law enforcement.

However, despite the existence of a legal framework, a number of problems remain in law enforcement practice. Firstly, it is extremely difficult

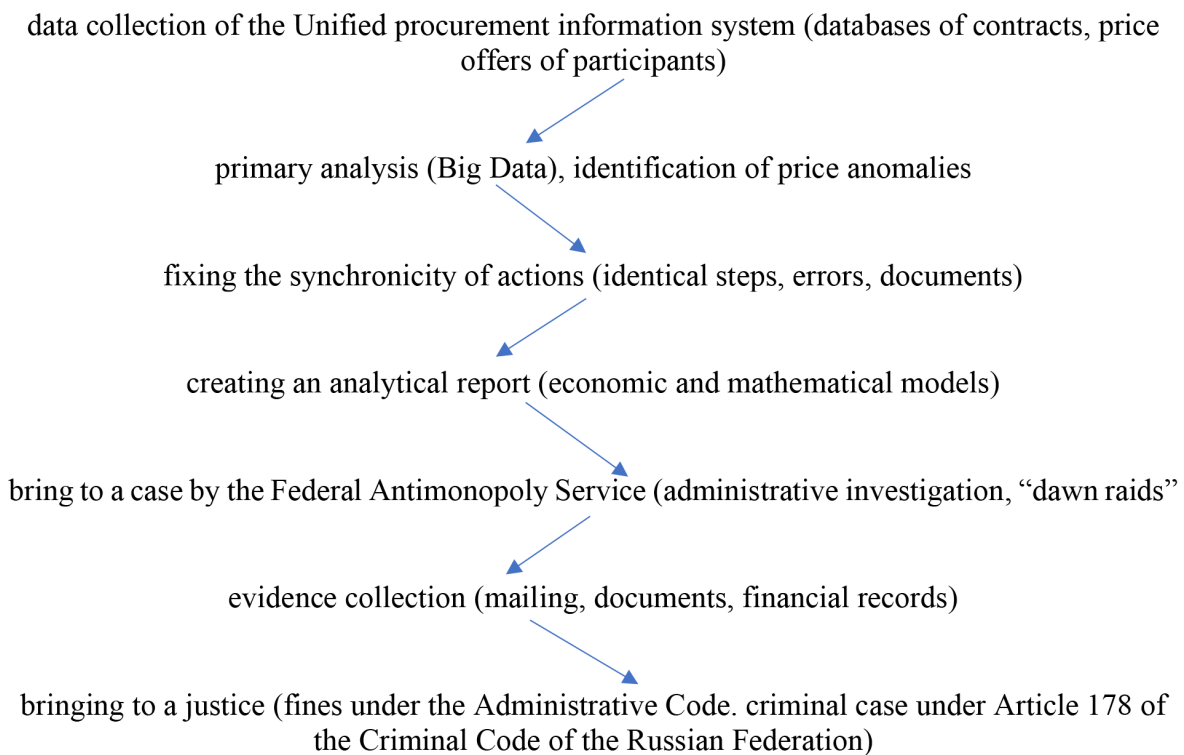


Figure 1. The stages of identifying the FAS Russia cartel using digital methods [compiled by the authors]

Рисунок 1. Этапы выявления картельного сговора ФАС России с использованием цифровых методов (составлено авторами)

to prove the fact of a cartel due to its hidden nature and informal ways of coordinating actions. Secondly, current sanctions do not always have a proper preventive effect: for large companies, paying a fine may be less costly than complying with the principles of fair competition. Thirdly, new challenges related to digitalization and the use of algorithmic systems give rise to non-traditional forms of coordination of actions, to which existing legal norms do not respond effectively enough. Finally, the globalization of markets necessitates international cooperation, since transnational cartels cannot be suppressed solely by national means.

Conclusions

Recently, the vector of development of regulation of cartel agreements has shifted from the general consolidation of prohibitions

to their actual enforcement through strict liability measures and the use of digital technologies, which has made it possible to increase the effectiveness of detecting and suppressing such violations.

Thus, to ensure the sustainable development of a market economy, it is necessary to improve the legal mechanisms for detecting and suppressing cartels, as well as adapting legislation to modern economic and technological realities. The implementation of these areas will significantly reduce the economic attractiveness of cartel agreements, making them risky and costly for businesses. Together, these regulatory areas will contribute to strengthening fair competition, protecting consumer interests, and maintaining the sustainable development of the Russian market economy.

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Вклад авторов: все авторы сделали эквивалентный вклад в подготовку публикации.

Авторы заявляют об отсутствии конфликта интересов.

Contribution of the authors: the authors contributed equally to this article.

The authors declare no conflicts of interests.

Поступила в редакцию (Reserved) 12.05.2025

Поступила после рецензирования 18.08.2025

Принята к публикации (Accepted) 25.09.2025