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## **Regulation of Digital Platforms in Russia<sup>1</sup>**

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### **Abstract**

*Given the active formation and development of digital platforms in Russia, discussion of possible approaches has intensified and legislative changes have been initiated aimed at improving regulation in platform markets. The Ministry of Economic Development and Bank of Russia have published the Concept of Regulating Digital Platforms and Ecosystems and the report “Ecosystems: Approaches to Regulation,” respectively. The competition legislation has been supplemented, primarily within the framework of the Fifth Antimonopoly Package, along with regulations aimed at protecting consumer rights on digital platforms. The Federal Antimonopoly Service of the Russian Federation (FAS Russia) and representatives of business participated in developing tools for digital platforms’ self-regulation.*

*The purpose of this article is to analyze approaches to regulation of digital platforms in Russia and to identify difficulties in its development and opportunities for improvement. The study is based on the analysis of legislation and law enforcement practice, scientific articles, and analytical reports. Based on the results of the analysis, the authors make conclusions regarding possible future directions for regulatory developments and proposals for deepening international cooperation.*

*The approach to protecting consumer rights on digital platforms in Russia combines the extension of previously existing norms to the platform economy with the addition of some new norms relating to aggregators of information about goods and services. Antimonopoly regulation follows the same approach, while, as part of the Fifth Antimonopoly Package, rules have been introduced aimed at eliminating illegal practices of dominant platforms and ecosystems.*

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*Based on the results of the analysis, the authors forecast further regulatory developments, which may relate to a wide range of aspects, from the unification of terminology and the introduction of new criteria for classifying platforms as dominant to the appointment of platforms' contact points for communication with authorities and consumers and interdepartmental coordination. The authors recommend using the regulatory experience accumulated by both western jurisdictions and partner countries, taking measures to promote Russian approaches at the international level, and intensifying cooperation on the regulation of digital platforms in multilateral formats, primarily in the BRICS group (including Brazil, Russia, India, China, South Africa, and others).*

**Keywords:** digital economy, digital platforms, digital markets, ex ante regulation, consumer protection, antitrust (antimonopoly) regulation.

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Russian digital platforms actively operate across a wide range of industries and economic segments. First of all, these include areas characterized by intensive interaction with consumers, such as taxi (Yandex.Go) and shared rides (Blablacar), distance selling (Wildberries, Ozon), sales of goods and services by individuals (Avito), travel services (booking tickets and apartments) (Hotels.ru. Ostrovok.ru), additional education, and distribution of video and game content. Russia is one of the few countries that has created its own search engine, competing on an equal footing with Google and acting as a core of a large digital ecosystem.<sup>2</sup> Among trading and e-commerce platforms, there are also large companies such as Yandex.Market, Ozon and Wildberries, whose monthly audience amounts to tens of millions of people. Large platforms also include online ad services such as Avito. In most areas, Russian digital platforms successfully compete with foreign global companies, not only in the domestic market, but also in other countries, primarily with a high share of the Russian-speaking population (e.g. Belarus and Kazakhstan).

The formation of digital platforms activities regulation in Russia is a relatively new and ongoing process. While legislators and regulators have taken steps to update regulatory frameworks and enforcement in recent years, certain gaps remain. Their elimination and

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<sup>2</sup> In this article, the term “digital ecosystem” is understood in the sense of the definition from the Concept of regulation of digital platforms and ecosystems given below.

improvement of regulation are an important factor of digital platforms' activities necessary to ensure their effective contribution to the development of the Russian economy. Thus, this article aims to analyze Russia's approaches to digital platforms regulation, identify the difficulties of its formation and opportunities for improvement. The study is based on the analysis of legislation and law enforcement practice, scientific and analytical materials. In conclusion, the authors make assumptions on further directions of regulatory developments and proposals on deepening international cooperation.

### **The concept of state regulation of digital platforms and ecosystems as a source of basic principles for their activities**

Despite the significant role in the economy and active development of platform services, until recently there was no unified conceptual approach to regulating and supporting the development of digital platforms in Russia, similar, for example, to that adopted in the EU [European Commission, n.d.]. Despite the diversity of markets in which digital platforms operate, the opinions of a significant part of the expert community indicate that regulating the activities of platforms, primarily the largest ones, on the basis of universal approaches is the most preferable and effective option. The development of the Concept of general regulation of the activities of groups of companies developing digital services based on one "ecosystem" (Concept of Regulating Digital Platforms and Ecosystems), presented by the Ministry of Economic Development in May 2021, can be considered as the beginning of the process of shaping such regulation in Russia [Russian Economic Ministry, 2021] .

The Concept contains basic definitions, including "digital platforms"<sup>3</sup> and "ecosystems".<sup>4</sup> It indicates the relevance of the development of platform regulation, as well as the main opportunities, challenges and risks associated with their activities. The Concept emphasizes that "for Russia, the development of digital markets, national ecosystems and platforms can become not only a driver of economic growth, but also the basis for maintaining economic and technological sovereignty. For Russian companies, the development of ecosystems not only creates opportunities for long-term development, but also helps to successfully compete with foreign ecosystems and platforms" [Russian Economic Ministry, 2021].

Analyzing foreign experience, the authors of the Concept come to the conclusion that "in all countries, the purpose of regulation is to protect the interests of local suppliers and consumers". For a number of countries, the priority of protecting national markets from foreign platforms

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<sup>3</sup> It is a business model that allows consumers and suppliers to connect online to exchange products, services and information (digital services), including products/services/information developed by themselves.

<sup>4</sup> It is a customer-centric business model that combines two or more groups of products, services, information (produced by suppliers themselves and/or other players) to meet the ultimate needs of customers (related to security, housing, entertainment, etc.).

entering it for reasons of national security is also noted. In this regard, the goal of implementing the Concept is “the formation of a regulatory environment that provides a favorable legal regime for the emergence and development of modern technologies and carrying out economic activities, as well as favorable conditions for effective competition”, along with the protection of the rights of consumers and suppliers, and technological sovereignty. Accordingly, the principles of regulation include:

- security of the digital environment;
- seamlessness of tools and support mechanisms;
- preferential conditions for conducting activities by national market participants compared to foreign ones;
- prevention of regulatory and tax arbitrage, including in favor of foreign platforms and ecosystems;
- healthy competition between national ecosystems/platforms;
- transparent conditions for consumer access to digital ecosystems’ and platforms’ services, not allowing unlimited discretion of the ecosystem owner;
- freedom of users to move between digital platforms and ecosystems;
- freedom of users to use their data stored and processed by digital platforms and ecosystems;
- preventing platforms and ecosystems from imposing their own services and creating discriminatory conditions;
- preventing restrictions on consumer choice;
- openness;
- reciprocity.

To achieve the objectives of the Concept, it provides for measures in various areas, including data management,<sup>5</sup> antitrust regulation, consumer protection, as well as “measures to promote the development of national digital platforms and ecosystems in order to maintain their competitiveness with international ecosystems and platforms in the Russian market, subject to the WTO and other international agreements” [Russian Economic Ministry, 2021]. Along with the adoption of the Concept, active legislative changes began.

### **Protecting the rights of consumers of digital platform services**

The Concept developed by the Ministry of Economic Development mentions safeguarding the interests of consumers and suppliers on platforms as one of the main objectives of regulation

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<sup>5</sup> It is often identified as a separate area of regulation not considered in this article due to its scale. For more details, see, for example, [Larionova, Shelepov, 2023].

[Russian Economic Ministry, 2021]. The main regulatory instrument in the field of consumer rights protection in Russia is the Law of February 7, 1992 No. 2300-1 “On Protection of the Consumers’ Rights”. In the context of digital economy development, in 2018 amendments were made to the Law regarding the relationship between buyers and sellers using digital services. In particular, the concept of “an owner of an aggregator of information about goods (services)” was introduced: “an organization, regardless of legal form, or an individual entrepreneur who is the owner of a computer program and (or) a website and (or) a website page in the Internet, providing the consumer with respect to a certain product (service) an opportunity to simultaneously familiarize himself with the seller’s (executor’s) offer to conclude a purchase and sale agreement for goods (an agreement for the provision of paid services), to conclude this agreement, and make an advance payment for the specified product (service) by transferring funds to the owner of the aggregator” [Federal Law 250-FZ, 2018]. Thus, Russian legislation on the protection of consumer rights does not provide for a digital platform definition, but contains the concept of an aggregator of information about goods and services that is very close in its essence.

According to the 2018 amendments, “the aggregator’s owner is obliged to bring to the attention of consumers information about himself and the seller (executor)” (company name, address, operating hours, etc.). The aggregator’s owner is responsible for false or incomplete information about a product (service) or seller (executor) only if he changes it. Also, the owner is not responsible for non-fulfillment or improper fulfillment of contracts between consumers and sellers/executors. Thus, the liability of aggregator platforms in case of violation of consumer rights is provided for in an absolute minority of cases.

In this regard, modification of regulation to strengthen the protection of the rights of consumers using digital platforms is being discussed. One option is to introduce the obligation of aggregators, as provided for in the regulation of some foreign jurisdictions (for example, the EU), to take measures to verify information provided by sellers or executors. As an argument against the introduction of such a requirement, one can note higher transaction costs and a corresponding increase in the cost of aggregators’ services.

Experts have also repeatedly noted the need to develop regulation aimed at preventing violations of safety requirements and requirements for mandatory certification and registration of goods sold through digital platforms. As a measure to fill this gap, one can consider the adoption in August 2023 of amendments to the Law “On Protection of the Consumers’ Rights”, providing for “compliance by sellers and owners of aggregators with mandatory requirements for labeling goods with identification means, transferring information to the state information system for monitoring the circulation of goods subject to mandatory marking by identification means, and other requirements related to circulation of goods, information about which is subject to inclusion

into the specified state information system” to become “the subject of federal state control (supervision) in the field of consumer protection” [Federal Law 474-FZ, 2023].

The issue of aggregators’ liability to consumers in case of non-fulfillment or improper fulfillment of contracts by sellers or executors is also discussed. As noted above, the current version of the Consumer Protection Law doesn’t provide for such liability. However, it is suggested that according to the concept of “induced trust” (cases when a conscientious consumer may associate the purchased product or service with an aggregator rather than a seller, and not be aware of the limitation of aggregators’ liability for any reason), its introduction may be advisable, at least in certain cases [CSR, 2021]. To the moment, only issues of non-fulfillment of contracts or inclusion of inappropriate requirements in contracts adopted directly between consumers and aggregators have been resolved. Federal Law 135-FZ “On Amendments to Article 16 of the Law of the Russian Federation “On Protection of the Consumers’ Rights”” adopted in 2022 states that if the inclusion in such “agreements of conditions that infringe consumers’ rights results in any losses to any consumer, they are subject to reimbursement” by aggregators. Inadmissible terms of the contract that infringe consumers’ rights include conditions that give an owner of an aggregator the right to unilaterally refuse to fulfill an obligation or change its terms; introduce penalties or other obligations for consumers; exclude or limit the liability of an owner for failure to fulfill or improper fulfillment of obligations on grounds not provided for by law; condition the acquisition of some goods (works, services) on the mandatory acquisition of other goods (works, services); provide for the performance of additional work (provision of additional services) for a fee without obtaining consumers’ consent; limit the consumers’ right to choose the method and form of payment for goods, works or services; and make the satisfaction of consumer requirements referring to goods (works, services) with defects dependent on conditions not related to these defects [Federal Law 135-FZ, 2022].

In terms of resolving disputes within digital platforms, the process of updating the current regulation has also not been completed yet. The draft law “On Amendments to the Law of the Russian Federation “On Protection of the Consumers’ Rights” and the Federal Law “On an Alternative Procedure for Resolving Disputes with the Participation of a Mediator (Mediation Procedure)” in terms of creating a legal basis for the development of a system of alternative online dispute resolution mechanisms is at the stage of the second reading in the State Duma [Government of Russia, 2021]. This draft law provides for the establishment of an online dispute resolution service, which is an “electronic service of a single portal of state and municipal services, ensuring the process of presentation, consideration and satisfaction of consumer claims provided for by legislation on consumers’ rights protection, as part of the pre-trial settlement of disputes between consumers and manufacturers (executors, sellers, authorized organizations or authorized

individual entrepreneurs, importers, or owners of aggregators) related to the sale of goods (performance of work, provision of services) using the Internet [Government of Russia, 2021]. Experts note that alternative dispute resolution methods have a positive effect on consumer protection and generally reduce transaction costs for all actors in digital markets. At the same time, the abovementioned draft law is focused solely on consumer disputes, without addressing disputes between suppliers, as well as between suppliers and platforms, which seems to suggest the possibility of further regulatory changes, including in areas other than consumer protection, in the future [Rozhkova, n.d.].

Regulation on some other aspects of consumer protection related to the activities of aggregators and marketplaces has not been developed at the legislative level. For instance, experts recommend monitoring the system of reputation, rating and evaluation by consumers and other users within digital platforms. They also note the risk of unreliable assessments and ratings being misleading for consumers. Accordingly, regulation should define the conditions for deleting consumer reviews that ensure the invariability of ratings and reviews of goods and services.

In law enforcement practice, consumer protection is often provided within the framework of the same decisions and tools as the competition protection discussed below. For example, in the 2022 FAS against Google case, it was found that “the rules related to the registration, suspension, blocking of accounts and circulation of user content” on the Youtube video hosting site are opaque and biased. According to the FAS, sudden blocking and deletion of user accounts without warning and justification of actions due to some gaps in these rules infringe on the interests of users, while simultaneously limiting competition in related markets. As a result, Google was fined more than 2 billion rubles (almost \$35 million) for violating antitrust laws [FAS, 2022b].

Thus, in the field of consumer rights protection, Russian legislators and regulators have chosen an approach that combines the extension of previously existing norms to new objects – digital platforms and ecosystems, as well as the targeted regulatory amendments with norms relating directly to digital platforms and ecosystems.

### **Antimonopoly regulation of digital platforms**

Russian antimonopoly regulation is based on the Federal Law of July 26, 2006 No. 135-FZ “On Protection of Competition”. Against the backdrop of digital platforms development, a discussion has arisen regarding the need and scope of adjustments to the current antimonopoly regulation, taking into account the specifics of digital markets. A number of experts noted the sufficiency of the approaches of classical antimonopoly regulation in relation to digital platforms, which was demonstrated, for example, in the FAS against Google case. Others, on the contrary, argued that many aspects of the regulation and functioning of antimonopoly institutions need significant

improvement, taking into account the specifics of digital platforms and ecosystems [Dotsenko, Ivanov, 2016].

State institutions rather adhered to the second position. In general, this corresponds to the approach adopted in foreign jurisdictions (EU, USA, China and many others) and international institutions, for example, the OECD. Thus, the Bank of Russia noted the need to change antimonopoly instruments for the platform economy, pointing out that “it is necessary to revise ... the approach to assessing the influence of subjects of antimonopoly legislation, ... determine market segments (products), their boundaries, as well as the shares of dominant ecosystems and / or their elements in certain market segments. It is also necessary ... to develop criteria in accordance with which it would be possible to apply antimonopoly measures to limit their organic growth.” The need to develop an approach to mergers and acquisitions carried out by digital platforms dominating the market was also noted [Bank of Russia, 2021]. In general, these proposals were reflected in the Concept of Regulating Digital Platforms and Ecosystems.

The position of regulators and other government agencies was based primarily on the fact that in the context of the large-scale development of digital platforms, a number of provisions of the Law on Protection of Competition, for example, regarding the criteria for preliminary control over mergers and acquisitions, became irrelevant. These issues were reflected in the so-called Fifth Antimonopoly Package.

The Fifth Antimonopoly Package came into force in the form of Federal Law No. 301-FZ “On Amendments to the Federal Law “On Protection of Competition”” on September 1, 2023. A key feature of the Fifth Antimonopoly Package was the enshrinement in legislation of the concept of “digital platform”, as well as the “network effect” characterizing digital markets. According to the Law, the network effect is “a feature of a commodity market (commodity markets), making the consumer value of a program (set of programs) for computers in information and telecommunication networks, including the Internet, ensuring transactions between sellers and buyers of certain goods (hereinafter referred to as the digital platform), dependent on changes in the number of such sellers and buyers” [Federal Law 301-FZ, 2023]. Thus, when analyzing the state of competition in the market where transactions are carried out through digital platforms, the antimonopoly authority should ascertain the presence of network effects and assess the ability of platform owners to influence the general conditions of circulation of goods in the market, eliminate competitors or impede their access to the market.

The Fifth Antimonopoly Package introduced a direct ban on actions “that result or may result in the prevention, restriction, elimination of competition and (or) infringement of the interests of other persons” for owners of digital platforms, when the following conditions are met simultaneously:



- there is a network effect in the market;
- the share of transactions carried out between sellers and buyers through the specific digital platform exceeds 35% in value terms of the total transactions carried out in the relevant market;
- the revenue of the specified economic entity for the last calendar year exceeds 2 billion rubles [Federal Law 301-FZ, 2023].

The FAS experts noted that such dominant platforms that are subject to new antimonopoly requirements “exactly include Avito, Cian, Yandex.Taxi, as well as Google and Apple as owners of application stores. In the future, other companies may also be included in this group” [FAS, 2023].

The procedure for carrying out mergers and acquisitions also changed. The previous version of the Law “On Protection of Competition” stipulated that companies must obtain the FAS consent to carry out a merger or acquisition if one of two conditions is met: the total value of the acquirer’s assets (shares, interests, property, rights) and the object of economic concentration exceeds 7 billion rubles; or the total revenue from the sale of goods of the acquirer (shares, interests, property, rights) and the object of economic concentration exceeds 10 billion rubles and at the same time the value of the assets of the object of economic concentration and its group of persons exceeds 800 million rubles. The new version of the Law added a condition that the transaction price exceeds the 7 billion rubles threshold. The FAS Russia noted that, for example, Yandex.Taxi’s deal to acquire the “Vezet” aggregator in 2021 could have been blocked due to exceeding this threshold if the Law had been adopted earlier [FAS, 2023].

Some other aspects of antimonopoly regulation of digital platforms, which are mentioned, inter alia, in the Ministry’s of Economic Development Concept and the Bank of Russia Report “Ecosystems: Approaches to Regulation”, are currently being implemented through self-regulatory instruments (discussed below), or as part of the implementation of previously existing norms extended to all economic entities, including digital companies.

In particular, the Concept stressed the need to introduce “the definition of openness of ecosystems and platforms and open model rules if they do not create preferential conditions for global ecosystems and platforms operating in the Russian market, as well as to develop measures to ensure the protection of suppliers not affiliated with ecosystems or platforms but allowed to use them, including the prevention of their tariff, technological, operational, informational discrimination, particularly in terms of search and advertising services” [Russian Economic Ministry, 2021].

In April 2021, the FAS launched an antimonopoly case against Yandex related to discrimination of unaffiliated suppliers. Large digital services, including Avito, Cian and 2GIS,

filed a complaint about interactive widgets appearing on the Yandex search results page, which mainly showcased its own services, making them more visible in search results [FAS, 2021c]. As a result, Yandex faced a potential fine of more than 4 billion rubles. The company was also ordered to stop providing preferential opportunities in search results for “its own” services; publish the conditions for third parties’ access to promotion opportunities in the Yandex search engine and ensure such access; and provide uniform rules for ranking information in the search engine, preventing the predominant demonstration of “its own” services [FAS, 2021c].

In January 2022, the FAS, Yandex and the companies that filed the complaint reached a settlement agreement. Yandex pledged to transfer 1.5 billion rubles to the Russian Foundation for Information Technology Development to promote Russian software products [Minkomsvyaz, 2022]. The company also pledged to comply with the FAS requirements, provide the antimonopoly authority with relevant statistics and not change the formats of partner integration with other entities for four years.

Thus, there is a trend in law enforcement practice towards limiting platforms’ and ecosystems’ ability to establish preferential conditions for their own services based on pre-existing antitrust regulation. However, it is important to emphasize that if a platform does not dominate the market, the actions of its operator cannot currently be considered an anti-competitive abuse. Thus, the requirements to prohibit preference for “own” services are likely to be extended to a wider range of platforms in the future. In addition, the issue of ensuring ecosystems openness remains unaddressed in regulation. At the same time, foreign jurisdictions tend to increase the openness of digital companies. As noted above, the introduction of the concept of digital ecosystems’ openness is recommended in the Concept developed by the Ministry of Economic Development. The Bank of Russia Report also emphasizes that platform owners and their affiliates should either not act as suppliers on their platforms, or “adhere to the general rules”, so that “platforms are equidistant neutral infrastructures that provide independent sales channels for suppliers” [Bank of Russia, 2021].

Countering the so-called practice of “tying” or package offers is closely related to ensuring competition. The Strategy of the Ministry of Economic Development provides for “ensuring the free switch of consumers between ecosystems/platforms and niche suppliers in order to maintain a competitive environment in the relevant basic markets for goods and services, including ensuring digital literacy of the population and consumers’ ability to choose a package of services or services separately” as one of its implementation mechanisms [Russian Economic Ministry, 2021]. The Central Bank of the Russian Federation also points out the risks of limiting consumers in choosing package compositions and reducing incentives to switch to competitors when “tying”, and proposes a “ban on mandatory bundling of services by dominant players” [Bank of Russia, 2021].

Regulation of such practices is currently also carried out within the general approaches of antimonopoly legislation. For example, the issue of package offers from ecosystems was considered in the 2015 FAS against Google case [FAS, 2015]. The Russian regulator came to the conclusion that the Google Play application store was distributed by Google only together with other applications and services developed by the company, through pre-installation on mobile devices sold in Russia. It was not possible for device manufacturers to obtain Google Play separately without other applications included in the package. At the same time, all applications included in the package can work independently and can be replaced with alternatives from Google's competitors without any functionality losses. Accordingly, the FAS considered that "Google's practice of "tying" the Google Play application store, in relation to which Google has a dominant position in the market, and other applications from the GMS<sup>6</sup> list, which are usually subject to competition, limits the access of business entities – Google's competitors to a number of markets where applications and services from the GMS package circulate, and may subsequently lead to driving them out of these markets ... Due to its tying practices, Google achieves pre-installation of a large selection of its apps and services without paying any compensation to the manufacturers. In turn, competing application developers are effectively deprived of the opportunity to pre-install their applications and services together with Google Play and under the same conditions as Google applications and services. As a result of the creation of access barriers, competitors are driven out of the markets where applications and services from the GMS package circulate" [FAS, 2015]. It was separately noted that packaging practices do not violate the law, but they become illegal if the package includes a dominant product that the buyer cannot purchase separately. The FAS saw Google's actions as an abuse of its dominant position in the market. After two years of proceedings, a settlement agreement was concluded between the antimonopoly authority and Google. The company paid a fine of 438 million rubles. In addition, under the terms of the agreement, it waived "the requirements for the exclusivity of its applications for devices using Android OS in Russia", pledged "not to restrict pre-installation of any competing search services and applications (including on the home screen by default)", refused "from promoting pre-installation of Google search as the only general search service and from further enforcing contractual provisions that conflict with the terms of the settlement agreement", and obliged to "ensure the rights of third parties to include their search engines in the selection window" [FAS, 2017].

As part of traditional antimonopoly regulation, which applies to all types of companies, and not just digital markets, Russian authorities also address the issue of restrictions for

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<sup>6</sup> Google mobile services.

commercial users to interact with clients outside a specific digital platform. An example was the FAS case against the Booking.com platform in 2019 [FAS, 2020]. In this case, the regulator found that the aggregator imposed contract terms on its commercial clients – hotels – on the need to maintain parity of prices and rooms (according to these conditions, the terms of the offer posted on Booking.com had to be no worse than a similar offer from any other source). The FAS found that “conditions on parity of prices, availability of rooms and conditions may limit the ability for new players in the market of aggregators of information about accommodation facilities to compete with Booking.com in terms of prices and number of rooms offered by accommodation facilities on the platform (site) of the new aggregator both online and offline, since regardless of the own actions of such aggregators to provide better interaction conditions for accommodation facilities, for example, reducing the size of their commission, they cannot offer the best conditions for booking to ultimate consumers, and as a result, are limited in their ability to attract new users to their platforms” [FAS, 2020].

The antimonopoly service rejected the Booking.com’s arguments about the positive effect of price parity, including in terms of eliminating the “free rider effect” for platform users. As a result, the FAS considered the aggregator’s actions as an abuse of a dominant position in the form of imposing contract terms on its counterparties that were unfavorable for them or not related to the subject of the contract. As a result of the appeals, the Booking.com service pledged to stop the practice of including the abovementioned conditions in contracts [FAS, 2021b], and also paid a fine of 1.3 billion rubles [FAS, 2022a].

Thus, Russia has taken the path of a mixed approach to antimonopoly regulation of digital platforms – some aspects are regulated within the framework of the provisions of the Federal Law “On Protection of Competition”, which were in force previously and apply to all types of companies, not just digital ones, while other aspects are reflected in the Fifth Antimonopoly Package aim specifically at addressing the abusive practices of dominant platforms and ecosystems. In the future, new regulations specifically related to digital companies are likely to be adopted. In particular, the legislation does not yet reflect the recommendations of the Concept of the Ministry of Economic Development and the Report of the Bank of Russia on ensuring platforms’ and ecosystems’ openness, while the discussion of the feasibility of making an “open” model mandatory still continues. In addition, fine-tuning and clarification of the already adopted approaches to regulating platforms is possible. In particular, the Central Bank Report indicates the need to reconsider the concept of unfair anti-competitive practices in the platform economy [Bank of Russia, 2021]. Experts also discuss the lack of pricing issues and problems of setting monopoly prices in the digital economy in the conceptual documents of the Central Bank of the Russian Federation and the Ministry of Economic Development. They note, in particular, that the current

legislation does not take into account the peculiarities of package offers of goods and services by ecosystems. Thus, it is recommended to “transform the existing approaches to determining the monopolistically high price of a product in order to take into account... the features of creation and development of ecosystems. It seems appropriate to consolidate the new approach by amending the Law “On Protection of Competition”” [RSPP, 2021].

### **Self-regulation of digital platforms**

Regulation of digital platforms and ecosystems should obviously help ensure a balance between stimulating the development of digital markets and protecting competition and interests of both users and the state. This is one of the reasons for the gradual development of digital platforms regulation in Russia (regulators try to take into account the positions of all parties involved in platform activities), and discussions on the feasibility of introducing a number of measures, for example, helping to increase consumer protection, but at the same time increasing burden on businesses.

In these conditions, Russian regulators, along with the establishment of new norms regarding digital platforms, decided to introduce a separate mechanism for their self-regulation. In 2021, the FAS Expert Council on the development of competition in the field of information technology, which includes representatives of the Service and business, published the Principles of interaction between digital markets participants [FAS, 2021d]. The document is not legally binding, but its adoption is intended to promote transparency and openness, eliminate discrimination, and protect the interests of consumers, suppliers and digital platforms themselves. The initiative to develop the Principles was supported by both business representatives (suppliers) and operators of digital platforms [FAS, 2021a].

The principles “apply to digital platforms that provide indirect (through platforms) or direct interaction of various user groups, in addition to platforms, including, but not limited to aggregators of goods, works and services, search engines, ad sites, advertising systems, operating systems, application stores, and social networks”.

The document provides examples of possible unfair practices of platforms, including the manipulation of information provision; the imposition of goods, works and services; the provision of benefits to platforms’ own services; unreasonable restrictions on the independent behavior of platform users; the use of contractual clauses that allow for an overly broad interpretation by platforms, the absence of clear and transparent rules for considering user requests, and the absence of an obligation for platforms to justify their own actions to limit or block users’ activities.

The principles that digital platforms will strive to adhere to include:

- reasonable opening of digital platforms, allowing implying users to make informed decisions, but without disclosing commercially sensitive information;

- neutral and non-discriminatory attitude towards all sides of the market;
- ensuring the independence of platform users when interacting with them;
- avoiding broad and ambiguous wording in the rules of digital platforms operation;
- ensuring the rights of platform users to consider their requests within a reasonable time and provide adequate responses to requests [FAS, 2021d].

The Principles are expected to be supplemented with descriptions of specific unfair practices. The FAS Expert Council will also develop a mechanism for resolving disputes arising from non-compliance with the five specified basic principles. Despite the formal absence of mechanisms to ensure the implementation of the Principles, representatives of digital businesses note their importance for regulating the industry, emphasizing the conceptual similarity with foreign laws, including the EU Digital Services Act, as well as their role as a marker setting vectors for the FAS decision-making in relation to digital platforms on initiation of cases and their consideration [FAS, 2021a].

### **Conclusion. The future of digital platforms regulation in Russia**

Over the past few years, discussions on possible approaches to regulating digital platforms and ecosystems have intensified in Russia. The Concept of Regulating Digital Platforms and Ecosystems of the Ministry of Economic Development, and the Report of the Bank of Russia “Ecosystems: Approaches to Regulation” were published. Legislative amendments have been made, primarily to the Federal Law “On the Protection of Competition” as part of the Fifth Antimonopoly Package. The FAS Russia and representatives of the industry have developed the “Principles of interaction between digital markets participants”, which can be considered as the main tool for self-regulation of digital platforms.

Regulatory changes are made gradually and are limited due to the importance of maintaining a balance between stimulating the development of platforms and protecting the interests of all parties in the platform economy, as well as the possibility of regulating various platform activities within the framework of non-specific rules that apply not only to digital markets. As a result, as law enforcement practice shows, regulatory authorities, primarily the FAS, were able to counteract unfair practices of digital platforms even before the adoption of new regulations, such as the Fifth Antimonopoly Package.

However, given new trends and constant changes in the platform business models, one can expect further updates and expansion of specialized regulation. In this regard, it may be useful to use some elements of foreign experience, including ex-ante regulation, considered or implemented by Russia’s partner countries. At the same time, it will be important to take into account the problems, adapt and use law enforcement practices that have demonstrated their effectiveness.

An approach based on clearly stated requirements, rather than principles, increases the focus on regulating the most harmful practices, the transparency of regulation, the level of understanding of permitted and prohibited practices, and the likelihood of compliance by regulated entities. Supplementing clearly stated rules, regulations and prohibitions with a non-exhaustive list of prohibited practices (for example, India adopted a similar practice) provides additional legal certainty while maintaining some flexibility. Russia is already moving in this direction: the Principles of Interaction of Digital Markets Participants are expected to be supplemented with a list of unfair anti-competitive practices typical of digital platforms.

Further development of regulation may relate to such aspects as terminology unification; possible introduction of new criteria (both qualitative and quantitative) for classifying platforms as dominant; addressing the issue of including MSME platforms in the regulatory perimeter for “large” platforms; determining parameters for classifying platforms as national; making choice between mandatory, partial or voluntary use of an open model; appointment platform contact points/representatives for electronic communication with authorities and consumers; participation of platforms in verifying the accuracy of information provided by sellers; platforms’ liability for sellers’ failure to properly fulfill their obligations; introducing fines commensurate with the scale of violations and economic activity of platforms; consideration of the possibility to create an interdepartmental coordinating body bringing together regulators and develop the existing advisory body (Expert Council under the FAS) with participation of the expert community, users and online service providers.

International cooperation can become an important factor for improving digital platforms regulation. Russia should position the already taken and future measures as advanced, taking into account the best international experience and ensuring a balance between stimulating the development of digital platforms and protecting competition, consumer rights, ensuring data security and privacy, and not abandon the use of positive experience of both the EU and Western jurisdictions, and partner countries. In the future, coordination and exchange of regulatory experience with like-minded countries can help balance the influence of the G7 and OECD states, seeking to develop digital markets regulation based on their own standards and norms. This approach will facilitate implementation and increase the attractiveness of domestic regulation. This could encourage partner countries, primarily within the EAEU, to develop and adopt requirements harmonized with Russian ones (otherwise there are high risks of most of them directly relying on the EU standards), help ensure a predictable regulatory environment for Russian platforms, as well as implementation of Russian priorities (for example, compliance with requirements regarding illegal content) throughout the Union.

It is also important to expand cooperation on digital platforms regulation within the BRICS. During the Russian 2024 BRICS presidency, regulators may conduct the analysis of platform regulation in ten countries and identify common problems and best practices, including in the areas of updating and applying consumer protection instruments, data protection and privacy, competition policy, and ex-ante regulation. Based on its results, BRICS guidelines with best regulatory practices could be compiled. The implementation of this approach will likely receive support from partner countries. For example, the Brazilian authorities specifically highlight strengthening cooperation within the BRICS on digital platforms activities as a necessary condition for increasing their own regulatory competencies. Identifying common problems and best regulatory practices of the BRICS countries can become a step towards developing universal approaches, unifying rules and providing mutual support for the development of national platforms in the future. Subsequently, BRICS outreach and BRICS plus partners can be integrated into this cooperation.

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