

Economists and lawyers: implacable enemies or potential best friends.

Empiric assessment of the role of economic analysis in Russian antitrust.

Anastasia Shastitko

Lomonosov Moscow State University, Moscow
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Abstract: The main objective of this investigation is the role of economic analysis in Russian antitrust. Economic analysis serves for the qualification of the market positions of economic entities and for the determination of market conditions.

Antitrust policy is the intersection of economics and law. Its development both in Russia and in the USA and Europe is governed by increasing role of economics.

It makes antitrust law enforcement more flexible, conditioned by circumstances (the *rule of reason*) enhancing the role of economic analysis. It means that the qualification of the behavior of economic entities depends on the qualification of their market positions and market conditions in general.

The study revealed that economic analysis is a powerful argument in a litigation procedure and significantly affects both its outcome and durability. However, the obtained results show that the Russia's antitrust authority probably underestimates the role that economic analysis could play in litigation.

Key words: antitrust policy, economic analysis, rule of reason, litigation.

L4, K21

Correspondence to: Shastitko Anastasia, Lomonosov Moscow State University, Russia, Moscow

E-mail: shastitkoanastasia@gmail.com Tel.: +33-6-70-44-97-70

Introduction.

Antitrust regulation is one of the legal spheres where law enforcement should be based on principles of economic theory. Thus antimonopoly policy is the meeting point of economics and law. It entails either new approaches to antitrust cases for both disciplines or conflicts caused by disagreements on their diverse methods. The main difference between economic and legal approaches is that the former is inclined to more flexible norms while the latter prefers bright-line rules.

This work, touching upon the question whether economic theory could guide antimonopoly policy, studies the element of antimonopoly law enforcement known as an economic analysis of market. Its logic comes from the economic theory. Economic analysis is used to qualify market conditions and market positions of economic entities. It makes an investigation of each antitrust case more individual and increases its accuracy. It also leads to more flexible antitrust law enforcement because the qualification of the behavior of economic entities became dependent on the qualification of their market positions and market conditions in general.

The main objective of the article is to estimate the role of economic analysis in litigations where companies appeal the decisions of antitrust authorities. Two types of infringements were considered: abuse of dominant position (article 10 of the Federal Law No. 135- FZ "On the Protection of Competition") and agreements restricting competition (article 11 of the Federal Law No. 135- FZ "On the Protection of Competition"). As it was mentioned above, to qualify the behavior of economic entities it is necessary to qualify their market positions and market conditions. For this purpose economic analysis is applied according to the special Order "On a process of market competition level analysis" that consists of the following elements:

- time interval,
- product market,
- geographic market,
- composition of market (economic entities),
- market volume and companies' shares on it,

- market concentration level,

-entry barriers,

-market competition level.

The article estimates the influence of an economic analysis application in litigation on its outcome and its durability and reveals factors that form the demand for economic analysis by antitrust authorities. The study has the following hypothesis. The first hypothesis is that economic analysis could influence a litigation outcome, in particular, that it could increase the probability of an antitrust authority to win a case. On the one hand the antitrust authority of Russia, especially its central government has some advantages (financial, administrative) in the question of an economic analysis application. This could be the reason that in any case in the sample of this study companies did not initiate an economic analysis application. On the other hand large companies usually have enough resources to provide economic analysis. In this case the capabilities of companies and antitrust authorities, especially on the regional level (departments of antitrust authority) are at least equal. In this case the fact that an antitrust authority usually initiates an economic analysis application could mean that an antitrust authority, but not companies treats it as a powerful argument in litigation that determines the underlined hypothesis.

Next, the appearance of the Order “On the process of market competition level analysis” and its application in lawsuits are the evidences of expansion of the *rule of reason*. The general understanding of economic analysis necessity could cause the appearance of the Order while intensity of its application shows to what extend the Russia’s antitrust authority is ready for new approaches. Economic analysis is potentially very powerful argument either for the defense or for the prosecution, but the Russia’s antitrust authority usually is inclined to control the execution of formal rules. As far as an application economic analysis in addition to objective reasons could be caused by the Law “On the Protection of Competition” that prescribes to use it in cases under article 10 (abuse of dominant position) but does not do it for article 11 (agreements restricting competition), the hypothesis is that the probability of economic analysis to be used is higher for cases instituted under article 10 than for cases instituted under article 11.

The last hypothesis is that economic analysis increases durability of a case and creates additional costs. According to some scholars economic analysis makes cases more cumbersome and rises their duration. It leads to additional costs caused by a list of required documents that should be presented in litigation or by an expert engagement.

The investigation is focused on litigations. Consequently an observation in the empiric part of this research is a case of an appellate court. It has a list of characteristics. Those characteristics that have a significant effect on litigation outcome, its durability and the demand for economic analysis were revealed.

The second part of this work reviews the articles that treat the problem of collaboration between economics and law in general and the role of economic analysis in particular. The third part presents the database that was formed especially for this research. The database was compared with a general sample to assess the representativity of the empiric results. The analysis of the general sample let to reveal some trends in Russian antitrust for the last few years. The forth part contains the econometric analysis that tested the underlined hypothesis. The conclusion summarizes the results of the analysis and its limitations.

2. Review of problematic.

The majority of researchers that point out the problem of collaboration between economics and law in the question of antitrust law enforcement consider applied methods of economic theory, for example, the possibility to analyze behavior of economic agents using structural models. Usually they provide theoretical analysis of advantages and disadvantages of these approaches and consequences of their application. Most of the authors concur in expansion of the role of economics in antitrust law enforcement as a development trend of antimonopoly policy. Different consequences of this development are a subject of vast studies.

Scholars agree that economics is essential for antitrust law enforcement (Muris 2003; Schinkel et al. 2004). The role of market analysis in litigations is increasing; the so-called *rule of reason* is becoming more preferable. It makes an investigation of each case more individual, with consideration for circumstances.

Both the US and the EU have chosen the way of antitrust policy development with increasing role of economics. This choice could be explained either by globalization and antitrust law convergence (Hwang Lee 2004) or by the advantages of a flexible approach based on economic analysis. The trump card of this approach is that it let to take into account factors missing by bright-line rules. “...*life is normally to complex for absolute rules*” (Breyer 2009). For antitrust law enforcement it means that if antitrust policy is purely based on bright-line rules, some social benefits could be lost. The flexible approach demands the analysis of benefits and costs of the behavior of economic entities. For instance, on the one hand a merge of two firms could increase the probability of abuse of dominant position, but on the other hand it could reduce transaction and production costs, improving efficiency of production. Or, for example, a company could be accused not only in too high price level but also in too low one (predatory pricing). In this case an antitrust authority should compare the short-run benefits of consumers caused by low prices and their long-run costs that could be caused by decrease in competition level after the exit of some firms from a market due to their negative profits. The *rule of reason* let to reduce welfare losses that could occur in case of formal application of bright-line rules, for example, if a merge of two firms is prohibited while it could dramatically increase efficiency of production or decrease transaction costs. Thus the *rule of reason* decreases the probability of a type one error, when innocents are accused, or when a merger with a positive effect that overweighs a negative one is prohibited. On the other hand the opponents of an approach based on economic analysis argue that it creates loopholes for unconscientious firms and increases the probability of a type two error that is to acquit infringers or to permit a merger with a negative effect that overweighs a positive one (Christiansen 2005).

One of the characteristics of an approach based on principles of the economic theory is that it often resorts to quantitative methods. There is no consensus among scholars according to appropriateness of these methods for law enforcement. The proponents of quantitative methods contend for their objectivity that could decrease the uncertainty of antitrust law enforcement, increase its transparency and curb the despotism of antitrust authority (Drauz 2002). The opponents of these methods on the contrary argue that they increase the uncertainty (Christiansen 2005). Results and conclusions obtained form quantitative methods depend on advanced hypothesizes,

available data and chosen yardsticks. Hence two different models could give two contradictory results.

Finally economic analysis itself is also criticized. The first argument is that its application could lead to additional costs caused by a list of required documents that should be presented in litigation or by an expert engagement (Christiansen 2005). The second argument is that economic analysis enlarges a petition docket, and under limited time it creates pressure and could affect a decision-making process. Courts prefer administrable rules, because they minimize litigation costs. A decision based on bright-line rules is less contradictory and hence clearer for the public at large (Breyer 2009).

Comparatively few empirical analyses on this problem were performed. This paper presents the empirical analysis of the role of economic analysis in lawsuits, where infringements of antitrust law are judged.

The publication of Schinkel, Carree and Gunster (2004) also provides the empirical analysis of litigations on infringements of antitrust law (abuse of dominant position and agreements restricting competition, article 81 and article 82 of the European Commission Treaty). The authors have used the official records on all published antitrust decisions by the antitrust authorities of the US and the EU as well as the decisions of appellate courts. They have constructed the list of characteristics of each case, for example, their duration and the level of imposed fines. The main objective of this work was to reveal some trends of competition policy development. According to the obtained results the number of appellations rises with the complexity of cases, and the level of complexity is inversely proportional to the likelihood that decision will be annulled. Economic rationales increase the probability of companies to make out a case.

It is worth to mention that this analysis was improved in several years (Schinkel et al. 2008). The authors revealed reduction in the number of annulled decisions and rise in the number of complex cases where none of two parties (antitrust authorities and companies) receives a full legal victory. It was also determined that large a petition docket does not necessary lead to high duration of a decision-making process.

The key differences between this work and the works of Schinkel, Carree and

Gunster (2004, 2008) are the following. First of all its analysis concerns the antitrust policy of Russia. Secondly, its empirical part considers factors that could influence an outcome of litigation and its durability paying more attention to economic rationales.

Economic rationales in Russian litigations are based on the Order № 108 “On the process of market competition level analysis” which entered into force on the 25 of April 2006 or its new version the Order № 220 “On the process of market competition level analysis”, which entered into force on the 28 of April 2010. Rate and efficiency of the usage of these orders determine the role of economic analysis in Russian antitrust.

The research of Avdasheva and Shastitko A. E. (2011) provides the investigation that concerns the scale of an economic analysis application in Russia. The authors revealed the demand for each element of economic analysis and the most popular methods of the analysis. They showed that parties in litigation prefer to use concentration level to determine market competition level, while entry barriers are rarely investigated. The following phenomenon is underlined in this work:

“The Russian antitrust authorities including courts are inclined to enforce antitrust law literally, ignoring circumstances. As a result, efforts of parties in litigations shift to formal control for compliance of conduct and position of market participants with law. In this case economic analysis is hardly useful...”

It is the evidence of underdevelopment of the *rule of reason* approach in Russian antitrust.

The next research (Kurdin and Shastitko A.A. 2013) also considers rate and efficiency of the usage of economic analysis in Russian antitrust, in particular in litigations under article 10 (abuse of dominant position) and article 11 (agreements restricting competition) of the Federal Law No. 135- FZ “On the Protection of Competition”. This investigation was based on the sample, consisted of those decisions by the antitrust authority of Russia to which an appeal was lodged. In each case of the sample economic analysis was used. The special attention was paid on the elements of economic analysis (time interval, product market, etc.) The correlation analysis, carried out on the available data, revealed that the number of elements used does not increase durability of a case, and some of them even tend to decrease it. In

contrast to this article the research of Kurdin and Shastitko A.A. (2013) does not concern the effect of an economic analysis application on a litigation outcome, because its sample does not contain cases without economic analysis. However it provides some evidence that if companies contest economic analysis presented by an antitrust authority it increases their probability to win a case.

This work offers the empirical analysis based on the enlarged sample that includes cases without economic analysis. This gives an opportunity to reveal factors that affect a decision-making process of appellate courts, durability of litigation and the demand for economic analysis.

3. Database.

3.1. Description.

The database of the empirical analysis was collected from official records on published decisions by the Supreme Court of Arbitration of the Russian Federation (<http://arbitr.ru/>) on appellate decisions of antitrust authorities. It consists of 149 cases of antitrust law infringements for the period from 2007 until 2011 and includes cases under article 10 (abuse of dominant position) and article 11 (agreements restricting competition) of The Federal Law No. 135-FZ, "On the Protection of Competition". Cases with economic analysis constitute 35% of the sample.

Most of variables in the analysis are dummies. It is the result of transformation of the qualitative information, contained in published decisions, into the quantitative information for empirical analysis. Each variable is a key figure of a case. The full list of variables is presented below.

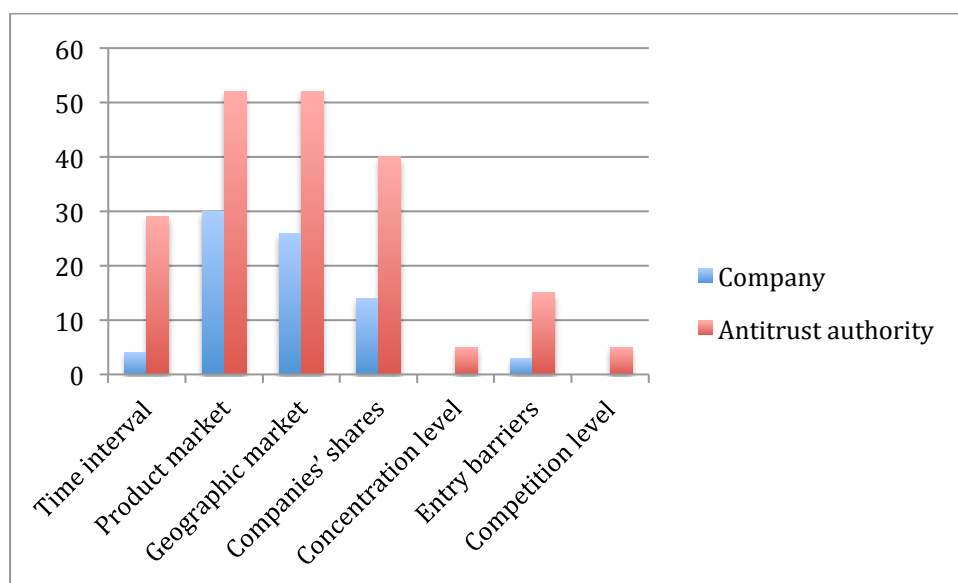
- Economic analysis (1, if it was used);
- Article – 10 or 11 (1, if article 11);
- Durability of a case;
- Decision of appeals court – in favor of a company or in favor of an antitrust authority (1, if in favor of a company);
- Instances (there are four instances of the Appellate Court in Russia);
- Market type – goods market or service market; financial market is considered as a part of service market (1, if goods market);

- Expert (1, if he was engaged);
- Natural monopoly (1, if company is);
- Region – whether region where a case was considered is developed (1, if it is);
- Company contests economic analysis (1, if company contests not only the qualification of behavior but also the qualification of position).

Economic analysis as it was mentioned above consists of the following elements: time interval, product market, geographic market, composition of market, market volume and companies' shares on it, concentration level, entry barriers and finally market competition level. To apply economic analysis either all of the elements could be used or just some of them.

It is impossible to qualify the market position of economic entity without identification of product and geographic markets. That is why all cases with economic analysis in the sample contain these two elements. It is necessary to determine market volume and market composition to calculate companies' shares. Hence these three elements are used always together. Usually economic analysis in litigation is provided by an antitrust authority (all cases of the sample), while companies contest some of its elements, the whole analysis or do not contest it at all. The graph below is based on the 52 cases of the sample, where economic analysis was used and presents the demand for its elements (see Appendix, Table 1).

Graph 1. Demand for the elements of economic analysis.



Source: <http://arbitr.ru/>

The most popular element of economic analysis after product and geographic markets is companies' shares. As it was mentioned above, product and geographic markets are automatically identified and it could be noticed that companies also contest these elements the most frequently. Entry barriers were determined three times more often than concentration level during the period under investigation. It could mean that the antitrust authority of Russia tends to control market contestability instead of its competition level.

The antitrust authority of Russia has 82 departments and 32 of them appear in the sample. Each department corresponds with the region of Russian Federation. For this analysis developed region is assumed to be a region from the first half of the socio-economic development rating (see Appendix, Table 2).

The table below offers some statistics of the sample. It shows that cases under article 10 dominate. Economic analysis was applied in more than one third of cases. The number of cases with natural monopolies is relatively small. There are slightly more cases with decisions by appellate courts in favor of an antitrust authority. In average a case held more than two out of four instances. It is worth to mention that among the 52 cases where economic analysis was used only three cases held one instance and other 49 cases achieved the third instance.

Table 1. Sample statistics.

	Number of cases	Share in sample
Article 11	37	25%
Goods market	64	43%
Economic analysis	52	35%
Natural monopoly	16	10,7%
Decision in favor of a company	61	43%
Average durability of a case	14 months	
Average number of instances	3	

Source: <http://arbitr.ru/>

3.2. Comparison of the sample and the general sample.

According to the official statistics the number of considered applications under article 10 by the antitrust authority of Russia rose by 67% from 2007 until 2011. The share of instituted legal procedures fall by 25% during this period, while the share of cases where antitrust authority revealed infringements increased by 27,7% and the share of appealed decisions by 4,7%. The share of annulled decisions decreased by 49% during this period. This statistics shows that the antitrust authority of Russia is enhancing its activity. Increase in the share of cases where antitrust authority revealed infringements could be caused by decrease in the number of instituted legal procedures that means that an antitrust authority tends to eliminate unpromising cases on a earlier stage of investigation. Decrease in the share of annulled decisions could be the evidence of increasing efficiency of an antitrust authority.

The situation for article 11 is slightly different. The number of considered applications here increased by 88%, while the share of instituted legal procedures by 133% and the share of cases, where antitrust authority revealed infringements by

38%. It confirms the conclusion about the enhancing activity of the Russia's antitrust authority. However in comparison to article 10, the share of appealed decisions significantly rose by 57% and the share of annulled decisions by 64%. It could be the evidence that companies' position in cases under article 11 is improving.

To make a conclusion about representativity of the sample the latter should be compared with the general sample. The sample consists of 149 observations that is 2,8% of the general sample. There are 37 cases under article 11 and 112 cases under article 10 in the sample that are 4% and 2,5% of the general sample correspondingly. The share of cases under article 11 in the sample is 25% that is by 10% more than in the general sample. The table below presents the statistics of decisions by appellate courts in the sample and in the general sample.

Table 2. Share of decisions in favor of companies.

Share of decisions in favor of companies	In sample	In general sample
Under article 10 (abuse of dominant position)	43,75%	15,6%
Under article 11 (agreements restricting competition)	32%	19%
Under both articles	41%	16%

Source: <http://arbitr.ru/>

According to this table the sample is biased. The share of cases under article 10 where a decision was pronounced in favor of a company is almost three times higher in the sample than in the general sample. The biasness of the sample for article 11 is less dramatic but still significant. This fact should be taken into account during the interpretation of the regressions outcomes. It means that coefficients of variables that significantly increase the probability of companies to make out a case could be overestimated.

The reason for this bias lies behind a method of the sample construction. The source of data is the official site of the Supreme Court of Arbitration of the Russian Federation. It means that the biasness is caused by the selective criteria for courts' decisions to be published on this site.

4. Econometric analysis.

The econometric analysis consists of three models. The first model represents a decision-making process of appellate courts and reveals the role of economic rationales in this process. This model tests the hypothesis that economic analysis is a powerful argument and increases the probability of antitrust authority to make out a case.

The model is based on the Probit technique and corresponds to the following equation.

$$p_1(x) = P_1(Y=1/X=x) = \Phi(X^T \beta),$$

where p_1 is the probability that company makes out a case, X is a set of independent variables.

Table 3. Outcomes of the regression with *decision of an appellate court* as a dependent variable.

Dependent variable	Independent variable	Coefficient	Marginal probability effect
Decision of appellate court	Economic analysis	-0,49** (0,23)	-0,19
	Article 11	-0,4* (0,25)	-0,16
	Constant	0,03 (0,15)	0,01

$$R_{pseudo}^2 = 0,03$$

**-coefficient is significant at 5% level

*-coefficient is significant at 10% level

(standard errors in parenthesis)

To test the first hypothesis the following variables were regressed: economic analysis (1, if it was used), article – 10 or 11 (1, if article 11), market type – goods or service market (1, if goods market), expert (1, if he was engaged), natural monopoly (1, if company is), region (1, if it is developed), company contest (1, if not only the qualification of behavior, but also the qualification of position) (see Appendix, Table 3, model 1). The table above represents two variables that affect a litigation outcome (see Appendix, Table 3, model 2). The majority of cases where decisions were held in favor of companies were instituted under article 10. It could mean either that the position of companies is stronger in cases under this article or that antitrust authority

is inclined to wild inquisitions of companies in abuse of dominant position. The analysis of the general sample revealed that the number of annulled decisions under article 10 decreased while the number of annulled decisions under article 11 increased. It could mean that there were more annulled decisions under article 10 during the period under review, but there is a decline trend. However it is worth to remind that the sample is biased for article 10 more than for article 11 that could cause this result.

According to the obtained results economic analysis is a significant argument in litigation. It improves the position of an antitrust authority and increases its probability to win a case that confirms advanced hypothesis. The share of decision in favor of companies in the sample is significantly higher than in the general sample. It means that in reality the role of economic analysis could be even more important.

Economic analysis is an endogenous variable. The Housman test that was applied to check the regression for the endogeneity problem (see Appendix, Table 3, model 3) showed that the regression does not suffer form this problem and hence its results are relevant.

The second model was employed to investigate the demand for economic analysis by an antitrust authority and verify the hypothesis that economic analysis is usually used by formal reasons.

This model is also based on the Probit technique and corresponds to the following equation.

$$p_2(x) = P_2(Y=1/X=x) = \Phi(X^T \beta),$$

where p_2 is the probability that economic analysis will be used, Z is a set of independent variables.

Table 4. Outcomes of the regression with *economic analysis* as a dependent variable.

Dependent variable	Independent variable	Coefficient	Marginal probability effect
Economic analysis	Goods market	0,85*** (0,22)	0,31
	Article 11	-0,74*** (0,29)	-0,27
	Constant	-0,63*** (0,16)	0,23

$$R_{pseudo}^2 = 0,11$$

***-coefficient is significant at 1% level

(standard errors in parenthesis)

To test the second hypothesis the following variables were regressed: article – 10 or 11 (1, if article 11), market type (1, if goods market), expert (1, if he was engaged), natural monopoly (1, if company is), region (1, if it is developed) (see Appendix, Table 4, model 4). The table above contains the results of the model that revealed that the demand for economic analysis by an antitrust authority depends on market type and article (see Appendix, Table 4, model 5). Economic analysis is mostly applied on goods markets. The point is that the majority of service markets in the sample is a communication service, and for this type of markets it necessary to apply a specific approach with different economic analysis. Thus economic analysis is difficult to apply on these markets and hence it is used rarely.

The demand for economic analysis is higher for cases under article 10. It means that economic analysis in Russian antitrust is used by formal reasons, according to law, but not by objective reasons, according to its power in litigation. It confirms the mentioned supposition.

The third model tests the hypothesis that economic analysis increases durability of a case. Durability of a case could be interpreted as a proxy for litigation costs, because the longer is a case the higher is its costs.

This model is based on the OLS technique and corresponds to the following equation.

$$Y = \varphi + \omega W + \vartheta,$$

where Y is the durability of a case, W is a set of independent variables, ϑ is random error.

To test the last hypothesis the following independent variables were regressed: economic analysis (1, if it was used), article - 10 or 11 (1, if article 11), instances (out of four), expert (1, if he was engaged), natural monopoly (1, if company is), region (1, if developed), company contest (1, if not only the qualification of behavior, but also the qualification of position) (see Appendix, Table 5, model 6). The Breusch-Pagan test revealed heteroscedasticity problem of the obtained regression (see Appendix, Table 5, model 7); hence White standard errors were employed. The table below represents the final version of the model (see Appendix, Table 5, model 8). The Ramsey test showed that the model does not suffer from omitted variables problem (see Appendix, Table 5, model 8).

*Table 5. Outcomes of the regression with **durability of a case** as a dependent variable.*

Dependent variable	Independent variable	Coefficient
Durability of a case	Instances	3,45*** (0,44)
	Goods market	5,15*** (1,26)
	Economic analysis	4,44*** (1,47)
	Constant	1,55 (1,18)

$$R^2=0,4$$

***-coefficient is significant at 1% level

*-coefficient is significant at 10% level

(standard errors in parenthesis)

The number of instances held by a case has a predictable positive effect on its durability. Cases about goods market last significantly longer than cases about service market. It could be caused by the fact that economic analysis is usually applied on goods markets but the model was tested for endogeneity problem that was found out to be absent (see Appendix, Table 5, model 9). Hence the reason is different, and this question stays open.

The role of economic analysis was proved to be significant; litigations become longer when it is used. It gives some evidence in favor of mentioned hypothesis that an economic analysis application leads to additional costs.

To conclude, the models were tested for multicollinearity problem. The test revealed that there is no such a problem (see Appendix, Tables 3-5). Finally it is worth to mention that Probit models could have overestimated coefficients because there are less than 500 observations in the sample.

Conclusion.

The results obtained provide the evidence in favor of the mentioned suppositions. Firstly, the investigation confirms that an economic analysis application increases durability of cases. However this evidence is not enough to conclude that the usage of economic analysis leads to higher social costs. Benefits and costs of its application should be weighted to analyze the effect for social welfare. Secondly, it was shown that economic analysis is an important argument in litigation and that it increases the probability of antitrust authority to make out a case. Thus if a decision about application of economic analysis is based on its weight in litigation, its application should extend. But the antitrust authority of Russia seems to underestimate the role that economic analysis could play in litigation. The investigation of the demand for economic analysis revealed that it is used mostly in cases under article 10 (abuse of dominant position). Hence an antitrust authority is more likely to be obliged to use economic analysis than is aware of its real power.

The sample of the analysis is biased, thus the obtained results cannot completely reflect the reality. This fact should be taken into account during their interpretation. For example, there are significantly more decisions in favor of companies in the sample than in the general sample. It means that in the reality economic analysis could be even more powerful argument for antitrust authorities than the investigation revealed.

Extending time interval of the analysis and hence enlarging sample could improve this research. It could help to solve the problem of biasness and increase the quality of the econometric results. In addition it let to take into account some changes in the Russian antitrust law (in the Federal Law No. 135- FZ "On the Protection of Competition", in the Order № 220 "On a process of market competition level analysis" in comparison to its previous version and in the system of sanctions).

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12. <http://riarating.ru/infografika/20120702/610227291.html> - RIA «News»

Appendix.

Table 1. Demand for the elements of economic analysis.

Elements of economic analysis	<i>Company</i>	<i>Antitrust authority</i>
Time interval	4	29
Product market	30	52
Geographic market	26	52
Companies' shares	14	40
Concentration level	0	5
Entry barriers	3	15
Competition level	0	5

Table 2. Rating of the regions presented in the sample on 2011.

№	Region	Rating according to the economic and social development for 2011
1	Moscow	1
2	St-petersburg	2
3	Tumenskaya oblast'	4
4	Sverdlovskaya oblast'	7
5	Krasnoyarskiy krahy	8
6	Respublica Tatarstan	9
7	Krasnodarskiy krahy	13
8	Permskiy krahy	14
9	Samarskaya oblast'	15
10	Kemerovskaya oblast'	17
11	Nizhegorodskaya oblast'	18
12	Chelyabinskaya oblast'	19
13	Rostovskaya oblast'	21
14	Respublica Komi	22
15	Irkutskaya oblast'	24
16	Novosibirskaya oblast'	25
17	Voronezhskaya oblast'	32
18	Vladimirskaaya oblast'	34
19	Volgogradskaya oblast'	35
20	Udmurtskaya respublica	39
21	Vologodskaya oblast'	40
22	Arhangelskaya oblast'	41
23	Saratovskaya oblast'	42
24	Kaliningradskaya oblast'	45
25	Novgorodskayz oblast'	52
26	Ryazanskaya oblast'	53
27	Penzenskaya oblast'	59
28	Astrahanskaya oblast'	64
29	Kurganskaya oblast	66
30	Ivanovskaya oblast'	70
31	Respublika Mariy El	72
32	Respublica Altay	80

Source: RIA «News» (<http://riarating.ru/infografika/20120702/610227291.html>)

Table 3. The results of the first model.

Sample size	149		
Dependent variable	Decision by appeals court (1, if in favor of a company)		
Independent variables	Model 1	Model 2	Model 3
Constant	0,08 (0,36)	0,03 (0,15)	0,1(0,18)
Economic analysis	-0,6 (0,37)	-0,49**(0,23)	-0,4(0,27)
Article (1, if Article 11)	-0,37 (0,27)	-0,41*(0,25)	- 0,44*(0,26)
Market type (1, if goods market)	-0,05(0,24)	-	-
Expert	0,29(0,55)	-	-
Natural monopoly	0,02(0,3)	-	-
Region (1, if developed)	-0,05(0,34)	-	-
Company contests economic analysis	0,15(0,42)	-	-
Residuals of the <i>reduced form equation</i> with economic analysis as a dependent variable, market type and article as independent variables	-	-	-0,44(0,74)
R^2	3%	3%	3%
Multicollineality	-	no	-
Hausman test (Ho: no endogeneity problem)	-	-	Pr>chi2 = 0.55

**-coefficient is significant at 5% level

*-coefficient is significant at 10% level
(standard errors in parentis)

Table 4. The results of the second model.

Sample size	149	
Dependent variable	Economic analysis	
Independent variables	Model 4	Model 5
Constant	-0,9(0,35)	-0,63***(0,16)
Market type (1, if goods market)	0,75***(0,24)	0,85***(0,22)
Article (1, if Article 11)	-0,79***(0,3)	-0,74***(0,29)
Expert	0,38(0,57)	-
Natural monopoly	-0,38(0,33)	-
Region (1, if developed)	-0,49(0,35)	-
R^2	13%	11%
Multicollineality	-	no

***-coefficient is significant at 1% level
(standard errors in parentis)

Table 5. The results of the third model.

Sample size	149			
Dependent variable	Durability of a case			
Independent variables	Model 6	Model 7	Model 8	Model 9
Constant	-1,18(2,5)	1,56 (1,65)	1,55(1,18)	1,56(1,65)
Instances	3,62*** (0,62)	3,45*** (0,6)	3,45***(0,44)	3,48***(0,64)
Expert	-4,64(2,99)	-5,13* (2,9)	-	-
Market type (1, if goods market)	4,77***(1,27)	5,4*** (1,2)	5,15***(1,26)	5,16***(1,22)
Economic analysis	2,72(1,88)	4,64*** (1,26)	4,44***(1,47)	4,57***(1,49)
Article (1, if Article 11)	1,25(1,48)	-	-	-
Natural monopoly	-1,24(1,62)	-	-	-
Region (1, if developed)	2,64(1,79)	-	-	-
Company contests economic analysis	3,41(2,14)	-	-	-
Residuals of the <i>reduced form equation</i> with economic analysis as a dependent variable, instances, market type and article as independent variables	-	-	-	-0,67(4,06)
R^2	44%	41%	40%	40%
Breusch-Pagan test (Ho: no heteroscedasticity)	-	Pr>Chi2= 0,0001	-	-
Ramsey test (Ho: no omitted variables)	-	-	Pr>F = 0.5905	-
Multicollineality	-	-	no	-
Hausman test (Ho: no endogeneity problem)	-	-	-	Pr>F = 0.87

***-coefficient is significant at 1% level

*-coefficient is significant at 10% level
(standard errors in parenthesis)

