Protection of a competition in the market of bank services is one of priority directions of a state policy as the unfair competitive environment brakes economy, is a constraining element of attraction of investments and degrades a bank product. The author analyzes the forms of unfair competition on the banking market and identifies their implications.

*Keywords*: competition, credit institution, banking service, banking product, unfair competition, incorrect comparison.

The Russian banking system, as a system of any other country is an important integral element of the national economy, which contributes to macroeconomic development. As a result, the banking system must meet the requirements of sustainability and fully satisfy the demand for provided banking and related services. A competitive relationships are designed to promote the offering new types of banking services and the improvement in the banking sphere of customer service. The competition in accordance with article 4 of Federal law dated 26.07.2006 №135-FZ «On protection of competition» (as amended on 13.07.2015) refers to the rivalry between economic entities during which the independent actions of each of them exclude or limit the ability to unilaterally influence general conditions of circulation of the goods on the corresponding commodity market.

In this regard, competition in banking service sector can be defined as the market conditions with the following characteristic features:

1) the presence of a certain number of credit institutions and customers;
2) the presence of banking service markets with alternative choices for the participants;
3) the creation of the differentiated or standardized type of Bank product (service);
4) using tools of non-price competition;
5) no barriers «input – output».

Consequently, competition in banking services is a dynamic process, in which the credit institutions through the use of bank instruments are trying to expand market share, increase the volume of sales of banking products and services to achieve and maintain high profit. The infringement by the
credit organizations of norms of the bank legislation and reception of advantage at realization of bank activity in the market of bank services break balance of a competition and monopoly. These violations lead to an increase in the proportion of unfair competition.

It is accepted that unfair competition is the actions of the credit organizations directed on acquisition of advantages in carrying out banking activities, which are contrary to Russian legislation and practices in this field. In addition, such actions cause or may cause damage to other credit organizations – competitors on the market of banking services, or otherwise harm their business reputation.

In Chapter 2 of the Federal law «On protection of competition» defines the following forms of unfair competition:

- discredit (the dissemination of false, inaccurate or distorted information that may cause losses to the managing subject—the competitor, or harming its business reputation) article 141;
- misrepresentation concerning the nature, method and place of production, consumer properties, quality and quantity of the goods, manufacturer and other properties – article 142;
- incorrect comparison of business entities, produced and sold goods with other business entities and produced and sold goods – article 143;
- acquisition and use of exclusive rights to means of individualization – article 144;
- sale, exchange, other introduction into circulation of goods with illegal use of results of intellectual activity -the article 145;
- mixing with the activities of the managing subject—the competitor or its goods or services – article 146;
- illegal receipt, use, disclosure of information constituting commercial, official or other secret protected by law – article 147.

Consider these forms of unfair competition in the provision of banking services and define their characteristics.

So, unfair competition in the form of discredit may be expressed in terms of the dissemination of false, inaccurate or distorted information, which may result in undermining the confidence of clients of a credit institution or other contractors to a competitor or its banking services. Thus the offender will attract customers to its own Bank products. A sign of false, inaccurate or distorted information is complete or partial mismatch information about a competitor that prevents us from obtaining the correct and comprehensive understanding of it.

Misrepresentation of the client of the credit institution, as a form of unfair competition is expressed in the dissemination of positive information about the activities of this organization and its banking product. However, such information in any case will not be accurate. Moreover, as a rule, it is directed to the discredit of activity of other credit institutions and pursues the aim – to cause outflow of competitor's clients and by that to increase own client base. Thus on the basis of the information received, the customer creates a false impression of the proposed credit institution banking product.

Unfair competition in the form of incorrect comparison is done by use in advertising of the credit institution or banking product of words or signs that create the impression of the superiority of a bank product (or) services. At the same time there is no reference to their characteristics or they are distorted. Such is the use of the words «best», «first», «number one», «most», «on-
ly», «unique», etc. Invalid comparison with a specific credit institution may also be expressed in its direct comparison with other credit institutions.

An example of the above violations of competition law is set out in the decision of the joint committee of the Federal Antimonopoly Service (FAS Russia) and the Central Bank of Russian Federation (Bank of Russia) of 12 January 2012. The facts based on the address of citizens and their complaints, which have been the cause for initiation of administrative proceedings concerning credit institutions of LLC CB Yuniastrum Bank, JSC SKB-bank and JSB (JSC) Investtorgbank about intended preventing by these banks to entering by their investors of additional money into the filled-up deposits are given in this decision. So, LLC CB Yuniastrum Bank since May 19, 2010 has entered the commission of 7% for transfer or cash disbursement of the money from the current account / account on the accounting of a contribution «poste restante» which has arrived on them in the non-cash way from the account on the accounting of the fixed deposit. At the same time the fee isn’t charged at withdrawal of money, in cases when the money has arrived into the account till May 19, 2010 or if such contribution has been open after the specified date.

OJSC «SKB-Bank» introduced with effect from 24 March 2010 commission of 7% for the Deposit of funds to be credited to the account top-up deposit «Patriot» and «Patriot!» and a similar percentage of the commission from 7 June 2010 for the deposit of funds to be credited to the account top-up Deposit «Gold standard» and «Gold standard VIP».

JSB (JSC) Investtorgbank since May 1, 2010 has stopped reception of additional contributions for the contracts of the filled-up fixed bank deposit «Prospect» signed for the term of the 732nd day and 1097 days.

The joint Commission of FAS Russia and Bank of Russia came to the conclusion that by entering into contracts deposits on attractive terms, and then not fulfilling part of its obligations, banks have an advantage over their competitors and could cause them losses in lost revenue from the placement of the attracted funds into deposits. Also similar practice doesn’t correspond to business customs in the bank sphere, to requirements of respectability, rationality and justice. In this regard, these credit institutions were recognized as violators of the Law «On protection of competition».

Unfortunately that similar practice of attraction of money in deposits «Big percent» continues to be used by the Moscow offices of LLC CB Yuniastrum Bank to this day. The signs of antimonopoly violations here are as follows. LLC CB Yuniastrum Bank raising money of clients in deposits and declaring the certain level of profitability of deposits considerably exceeding average market misleads clients. Such delusion concerns consumer properties of the specified contribution as validity doesn’t provide the declared level of profitability of deposits. As a result LLC CB Yuniastrum Bank gets unreasonable competitive advantage over other credit institutions.

Another violation of the competitive relations is imposing by credit institution of the additional («accompanying») services. To prove such facts in some cases it can be difficult. Despite the fact that, in accordance with paragraph 2 of article 16 of the Law of the Russian Federation «About protection of the rights of consumers» it is forbidden to cause acquisition of one goods (works, services) obligatory purchase of other goods (services), credit institution violate this rule. As the analysis of practice testifies, as a rule, at the conclusion of the credit agreement credit institutions impose additional in-
insurance service – life insurance and health of the borrower. However, such violation is unlawful and infringes on the rights of the client of the credit institution because insurance is an independent service in relation to lending.

In some cases, credit institutions during the conclusion of the credit agreement also invited to sign a contract for rendering paid service in a monthly addressed to the borrower notices on the loan. However according to Art. 32 of the Law of the Russian Federation «About consumer protection» the consumer can refuse this service by the appeal to Additional office / Operational office / Cash processing office of credit institution with the written statement at any time, having paid the commission for the percentage period in which there was a refusal of service. In other cases within the credit agreement credit institutions offer to sign the contract on a credit card that is also additional service.

Thus, as described in article violations of the antitrust laws point to the unfair competition of credit organizations on the market of banking services. Negative consequences from unfair competition can be expressed in overestimate of cost of a banking service, decline in quality of a banking product, destabilization of the market of banking services. In any case this has a negative impact on the customers of banking products. Such situation demands from the legislator of immediate response to maintenance of the competitive environment in the market of banking services, counteraction to monopolism and unfair competition.

References

