



Improving the Mechanism of State Regulation of Anti-Monopoly Activities of Small Entrepreneurship

Mejora del mecanismo de regulación estatal de las actividades antimonopolio del pequeños emprendimientos

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ABSTRACT:

The authors study theoretical foundations and practical problems of improving the mechanism of state regulation of anti-monopoly activities of small entrepreneurship in the conditions of market economy in Kyrgyzstan. The object of the research is small entrepreneurship of Kyrgyzstan and anti-monopoly activities of small entrepreneurship. Application of the experience of foreign countries for state regulation of anti-monopoly activities (in particular, the USA), which could be used in practice in Kyrgyzstan, is offered.

Key words: small entrepreneurship, state regulation, state interference, anti-monopoly activities, anti-monopoly protection, mechanisms of regulation.

RESUMEN:

Los autores estudian los fundamentos teóricos y los problemas prácticos para mejorar el mecanismo de regulación estatal de las actividades antimonopolio de la pequeña empresa en las condiciones de la economía de mercado en Kirguistán. El objetivo de la investigación es el pequeño emprendimiento de Kirguistán y las actividades antimonopolio de la pequeña empresa. Se ofrece la aplicación de la experiencia de países extranjeros para la regulación estatal de actividades antimonopolio (en particular, EE. UU.), que podría utilizarse en la práctica en Kirguistán.

Palabras clave: pequeña iniciativa empresarial, regulación estatal, interferencia estatal, actividades antimonopolio, protección antimonopolio, mecanismos de regulación.

In the conditions of market economy in Kyrgyzstan, one of the main problems is development and improvement of regulation of small entrepreneurship. This is caused by quick development of small entrepreneurship after gaining independence and transition from the administrative economy to market relations. Small entrepreneurship in developed countries has been producing economic profit. At that, small entrepreneurship positively influences not only the economic life of society but also moral, political, cultural, and other spheres of people's lives. Thus, small entrepreneurship is a source of economic innovations into provision of continuous development of modern market economy [1].

The complex of state measures, which constitutes the anti-monopoly policy, should be based on the general conceptual idea, according to which the highest well-being of the population is

achieved when they have the possibility to exchange the manufactured goods and services at a competitive market. It is considered that all deals of such exchange are done on the basis of the prices set as a result of competitive struggle between suppliers of goods and services, the society will receive large volume of material goods – which is not the case with the deals' prices that are different from the competitive (higher or lower). Competitive market is a universal regulator of public production and its proportions. At that, the issue what to produce and in what quantity is solved by the consumer, setting the demand for certain types of goods and services.

The object of anti-monopoly regulation is the activities of companies and the institutional structure of economy. The latter, according to the anti-monopoly norms, should be "effective" – i.e., with a certain volume of society's resources, it should maximize (quantitatively) and optimize (qualitatively) the manufacture of consumed goods. That is the structure, which consists of legally independent and competing companies – each of which determines the character of manufactured products and the volume of its production. Institutional organization of economy and competition are thus correlated as structure and function. The influence of anti-monopoly law is done on the structure of economic entities, their economic behavior, and certain forms of interrelations between them.

Such understanding of effectiveness of the institutional structure of economy predetermines the goal of anti-monopoly laws. The latter consists in supporting competition as a basis of economic mechanism that ensures effectiveness of production, correspondence between the interests of different companies and the country's economy on the whole, and prevention of consumer's discrimination. Anti-monopoly activities ensure implementation of the two most important functions of competition – comparative and selective [2] .

The comparative function influences the economic development for two main directions. Firstly, competition is a universal tool of comparing the effectiveness of various companies and determining and stimulating (as a result of obtaining profit from selling products) the most economically profitable of them. Secondly, such rivalry conforms to the interests of consumer, who selects the supplier with the most profitable conditions of purchase. The manufacturing companies' realizing the fact that consumer selects the company from which to buy the required product makes each of them perform measures for becoming the best choice. In the conditions of approximately equal quality of product, the decisive factor is price. Companies reduce prices whenever it is possible. As a result, the curve of indifference of the exchange party "society" goes to the budget line.

The selective function ensures departure of the companies that are not able to ensure lower price and higher quality of products. Its implementation increases the general level of production effectiveness [3].

Solving the task of anti-monopoly law for supporting the competition supposes also preventing of such state of the market at which functions stop working – establishment of a monopoly. At that, the monopolist is not a very large corporation but a company of any size that is not influenced by the above functions of competition with the help of the limitation practice – i.e., by measures that do not allow the competing companies entering the market where it operates. These measures include: seizure of raw materials and sales channels, various agreements (cartels) between two and more companies, aimed at ousting other companies from the market, etc. Prevention of the limitation practice, which is realized in a certain form, is a direct goal of the system of anti-monopoly protection of society.

In order to understand the evolution of the system of anti-monopoly protection of society, it is necessary to see its structure in the following way. Firstly, dividing the whole system into two large mechanisms: public-private mechanism (bodies of the legislative, executive, and legal power which are to protect the society from mystic manifestations) and the citizens as bearers of certain mentality and skills of self-defense against monopolies. Secondly: tracking the changes in the structure and functions of the block "public-private mechanism" depending on the changes in the character of anthropogenic factor and industrial culture under the influence

of the scientific and technical revolution. Thirdly, comparing the role of separate mechanisms of public-private mechanism and citizens in the process of development of the system of the anti-monopoly protection of society.

This will allow presenting the process of development of the system of anti-monopoly society in three dimensions:

- adaptation process, adaptation of the state & legal mechanism of fighting monopolism to the changing technical and economic conditions;
- development of the society's self-regulation in the issue of formation and support for socio-optimal (not far deviating) institutional structure of economy;
- improvement of the legal and economic & analytical tools of preventing monopolization.

Anti-monopoly policy is a flexible tool that reacts to the changes of peculiarities of economic development of countries in certain historical periods. At that, changes in the economic development should be understood in the wide sense of the word, taking into account their purely economic and social components. Development of the anti-monopoly policy of the state on the whole and of the anti-monopoly law in particular is influenced by two interconnected groups of factors [4].

The first one includes the factors of increase of production effectiveness. Changes in their ratio influence the anti-monopoly laws. The second group of factors that influence the development of anti-monopoly law belongs to the group of social ones. Reaction of wide groups of society on turns of economic development and related changes in the economic practice of large or small business directly influence the legislative process, judicial activities, position of the government, and the anti-monopoly policy. The combination of the factors that belong to the two distinguished groups predetermines its development at a certain historical stage.

At present, the Kyrgyz organization of a range of sectorial markets could not be considered socially acceptable due to the following reasons. Firstly, the command and administrative system of economy's management led to the high level of monopolization of a range of the most important markets – both at the national and at the regional level. The Kyrgyz economy was peculiar for two types of monopolism.

1. Monopolism of republican and local authorities, all-union and republican ministries, which were neither owners nor manufacturers. In the conditions of the administrative and command system, the companies did not depend on the consumer. The higher-level agencies issued the directive tasks for production and set the funds of material resources for these tasks. The prices for the manufactured products were set "from above". Evaluation of the company's activities was performed not by the real results but by the level of execution of the plan – so an enterprise could execute the plan, but its products were not in demand. Sales and payment were guaranteed. As a matter of fact, the state planned, produced, and purchased the commodities. Improvement of the quality and implementation of scientific and technical achievements were stimulated not by economic methods by administrative ones [5].

2. Monopolism of the companies as to consumers. Even with full elimination of funding and plans setting – monopolism of large companies – it bereaves the consumers of the choice of suppliers. That's why there are no conditions for competition, without which the market mechanism does not work. Besides, production monopoly is related to preservation of underdeveloped companies: they cannot be closed as they are the only manufacturers of the profile products.

Monopolism in a country's economy is aggravated by the growing commodity deficit, when demand for most goods exceeds the offer, and consumer without proper choice is ready to buy product of any quality and any price. For the market with the buyer's dominating role to be created, the offer has to exceed the demand. Competitive struggle for consumer and high requirements for the offered products are possible only in such market. At present, the Kyrgyz economy is peculiar for implementation of the measures that have to eliminate the dictate of

manufacturer and establish the buyer's priority. However, competition, as a mechanism that ensures reduction of prices for goods and services, increase of the volume of their issue and quality, cannot be established by a decree or through formal change of the character of property from state to joint-stock or private. This requires deeper institutional restructuring of production. Formal elimination of sectorial ministries does not mean the transition to the structure that ensures competition among manufacturers or change of the list of suppliers of goods and services. More or less controlled state monopolies were replaced by private or public-private monopolies, which are similar – as to their internal structure – to the former ministries or their large departments.

Secondly, the state of the mechanism of anti-monopoly control could be called initial due to the following reasons:

- imperfection of the mechanism of anti-monopoly control in the system of executive power;
- insufficient effectiveness of activities for de-monopolization and development, related to weak coordination with other departments that are directly involved into implementation of the economic reform and with lack of experience of solving anti-monopoly tasks and strictly determined effective laws;
- low level of involvement of judicial bodies into such control.

Obviously, the competitive type of institutional structure is optimal. However, in the range of spheres, peculiarities of production, its material & technical basis, geographical placement, character of demand and consumption, and created goods and services lead to difficulty and even impossibility of spontaneous emergence and reproduction of competitive institutional structure of economy [6].

In such cases, the state has to use administrative methods in order to achieve the same results in such spheres (from the point of view of their contribution into society's well-being), while in other spheres of economy they are achieved "naturally" due to the work of the competitive mechanism. The spheres in which the state determines the mechanism of economy are called "regulated". They vary in different countries, but in most of them, including the USA, the regulated spheres include railroad, aviation, and other types of transport; a range of fuel and energy productions, e.g., supply and production of electric energy; provision of different types of utility services, etc. [7].

The market mechanism of pricing cannot ensure the socially just level of prices in the above spheres due to very low elasticity of demand for the manufactured goods and services. If the consumer can refuse from the purchase of car, PC, etc., he cannot live without heating or roof above his head. At that, the character of the material and technical basis of the communal services sphere and narrow character of the market's limits (city, district, etc.) allow for large possibility of independence of suppliers in price setting.

Preservation of the market mechanism in the sphere of communal services may lead to emergence of tension in society. In order to avoid this, the state usually implements regulation of this group of spheres. At that, the corresponding bodies have to solve a difficult task of preserving compromise between the interests of provision of economic effectiveness and social justice. In some cases, socially important productions are subsidized by the state.

Thus, the purpose of anti-monopoly law and state regulation of separate spheres is to provide economic conditions of growth of the well-being of society on the whole and its residents in particular and to prevent unjustified redistribution of national wealth in favor of monopolists. As a matter of fact, anti-trust laws and state regulation are two different tools for achieving this goal. While the former solves this task indirectly, through influence on the institutional structure of production and behavior of economic subjects, the latter does it directly, by determining prices (direct or normative) and, in some cases, geographic, administrative, or economic boundaries of sales markets, as well as implementation of requirements to the volume and quality of created goods and services.

Selection of one of these two parameters is determined by the effective application for achieving a specific goal in each specific case. Under the influence of technical progress, structural shifts in economy, and social changes, the economic conditions in a specific sector of economy change. Therefore, the comparative effectiveness of using the above methods changes. That's why over the course of using these changes, their usage changes – though, with certain time lags. As a result, over a large historical period (e.g., post-War years or since the beginning of the 21st century), there has been periodic change of “regulation” and “deregulation” range of spheres. It should be noted that application of one of the above methods does not exclude the possibility of using another one, and vice versa.

Solving the anti-monopoly problems in the national economy supposes using a certain system of the tools of state influence on the economic processes. The main components of this system are as follows:

- organizational and legal mechanisms;
- determining the conditions of access of private capital into regulated spheres; the mechanism of pricing.

The key role in provision of regulation as a method of realization of anti-monopoly strategy belongs to organizational and legal mechanisms. The most important requirement to the latter consists in mutual compatibility, as well as possibility of transition from one legal regime of economic activities to another.

The initiator of introducing the regulation and the one bringing the legislative basis to it is the state. Any law that supposes introduction of regulation in any sphere should include the following issues:

- goals of regulation;
- limits of the sector of economy that is covered by regulation; status and authorities of the government body that conducts regulation.

The competence of this body includes determining the competitive methods and the tools of state influence. Activation of opposition to monopolistic manifestations “from above”, from the state, especially in the conditions of lack of anti-monopoly mentality with the wide groups of population – understanding their rights as consumers, the skill to protect them in the civilized form, i.e., in court, against the manufacturers that increase prices or manufacture low-quality products.

At present, development and support for competitive relations on purely economic basis is impossible. This requires a wide state & legal mechanism and developed understanding of consumer rights with the population. Establishments of these institutes, preparation of staff for them, and formation of the corresponding mentality with wide groups of population require a lot of time – which equaled fifty years in the USA [8].

The effective system of anti-monopoly protection of society cannot form with development of certain socio-political preconditions and institutes. It should be based on the low level of public consciousness, and the key sub-system, which ensures its functioning, should be independent from the state. Such sub-system is the effective judicial power, which does not depend on executive and other branches of power and which is guided only by law. Formation of the efficient and protected judicial power as a mechanism of arbitrage of economic life of society should be one of the main directions of state development in the republic.

It seems that at present stage practical efforts of the state for demonopolization should be concentrated in two directions. Firstly, on the basis of the existing anti-monopoly law it is necessary to form the structure of suppliers which ensures the competitive mechanism of pricing (free competition, monopolistic competition, “weak” oligopoly) in the markets where it is possible based on the interests of economic effectiveness. This requires dividing economic structures into small ones – which ensure competition in the market to which they supply their products. At that, such process should concern economic structures of all property forms and

be conducted regardless of the level of privatization in a certain sphere. The landmark could be Herfindahl-Hirschman index; the post-ministry structures should be divided into independent economic entities, for each of which the value is no more than 1,800. At that, it is expedient to preserve the structures that unite within one organization the vertical production ties and technological chains, which allows avoiding pricing "markup", which emerge during division into different companies each of which acquires a separate stage of the technological chain.

Secondly, anti-monopoly regulation should cover the companies that, in the conditions of planned economy, were planned and built as monopolistic suppliers of the manufactured goods and services and cannot be divided into independent companies without large losses of production's effectiveness. In the conditions of deficit of investments, implementation of competing companies into a range of spheres is unlikely, and such companies will preserve their monopolistic position for a long time. This makes them natural monopolies. Their transition to the market system of economy, and, in particular, pricing, is possible only on the path of preservation of control over prices over a long period of time. It should be emphasized that control over prices is seen not as direct state-imposed pricing but as a complex of measures aimed at supporting the prices at the level that ensures social stability and preservation of the single economic space in the country.

The system of control over prices in highly-monopolized part of economy should be aimed at the same final results that are ensured by competition in the demonopolized economic system – increase of the volume of issues and quality of products with reduction of prices.

As it is impossible to include the competitive mechanism in certain spheres of the national economy at once, it is offered to organize the competition for receiving the possibility of commercial activities at a certain market and using the company for receipt of profit at the initial stages of the economic reform. For this, it is expedient to introduce the popular method of licensing combined with privatization.

One of the possible ways is the following one. The auction is announced (competitions, tenders) for the right (in the form of license) to use a certain state company for the purposes of private entrepreneurship. Uniqueness of the auction consists in the fact that license is issued not to the one who's ready to pay the highest bid (it is possible to issues the licenses pro bono or for a moderate price, which is charged as an indirect price). It is given to a legal entity or individual which offered the most profitable terms for consumer. In the similar way, the licenses for exploitation of the systems of railroads are provided in the USA – i.e., the spheres are in the state of monopoly due to peculiarities of the production technology.

The license applicants could be entrepreneurs, work groups, managers of companies, investment and commercial cooperatives, joint-stock companies, small and joint companies, etc. There could be cooperation between them by creation of associations on the share basis and other forms.

As a rule, in order to receive a license, several parameters should be observed – among which priority is given to price, volume, and quality of manufactured goods and services of a certain type. It is also possible to include ecological and social norms and requirements of continuity of work, satisfaction of the needs of certain social contingent, etc.

Based on American experience of regulation of natural monopoly, the authors offer the following terms of obtaining the license:

1. Observation of the top level of price for manufactured goods and service. The level is fixed (at that, it can be reconsidered in case of substantial change of economic conditions – primarily, increase of cost of production factors due to inflation) or on the normative basis. The rule of pricing usually depends on peculiarities of a specific economic object.

2. Observing the assortment and quality of issued products and/or services, as well as keeping the volume of their production at the level envisaged by the license.

The license holder's observing these two conditions – as well as all other ones – should be an

object of thorough control from several – perhaps, similar – administrative bodies.

Control “from above” should be supplemented by the measures for stimulation and creation of conditions for control “from below”. The trading spots of the licensed companies should have the information on the license holder’s obligations on such key issues as prices, assortment, and quality of provided goods and services, with name and signature and the list of several government bodies that would be obliged to consider any complaint from citizens regarding violation of the obligations. There also should be material stimulation of the controlling bodies’ employees (possibly, by means of fines imposed on the license holders who violate the obligations).

After issues of a license, the legal entity or individual who received it accepts unlimited economic responsibility for the activities of the licensed company and all possible losses and liabilities. Control over prices should be preserved until the appearances of effective competition in this sphere of economy. A sign of establishment of healthy competition in the sphere is the absolute or relative (in view of inflation) reduction of prices for the products as compared to the top-level prices set in the licenses. In this case, government control over prices should be lifted off, and the tool for protecting consumers from high prices should be anti-monopoly law.

The competitive character of licenses issues is a quasi competitive mechanism, Still, it has positive and negative aspects. On the one hand, unlike market competition, it allows using the element of competition between the companies not only for the purpose of maximization of a part of public product, created in the regulated sector of economy, but also for solving a range of social and ecological issues. For example, the state can set not only low level of prices as a condition of license issue, but also usage of ecologically “clean” technology or initial satisfaction of the needs of specific social category. For these purposes, diversity of criteria of competitive selection could be established, as well as an aggregated indicator expressed in cost units or points. For example, the cost of public product, which has to be manufactured by the offered company, is reduced by the costs for nature protection or resource saving works that are to be caused by its activities. In this case, the aggregated indicator could be better with the company that offered higher prices and usage of “clean” technology.

Thus, the most important peculiarity of regulation by licensing is the above multi-target character. While at first it was used to solve anti-monopoly tasks, starting from 1970’s the usage of this mechanism for solving the problems of ecology, labor protection, provision of security of consumers goods, etc. was expanded. Licensing for solving these tasks separately from monopoly became popular in the world. A range of laws was passed which required a license for certain types of activities and in competitive spheres. In this case, a condition of provision of license was not the price of products or sales markets but observation of certain parameters of the technological process, standards, etc.

However, from the other hand, connection of criteria and task of maximization of public product to other goals, especially social, could lead to negative consequences. Very often, the functions of social support and sectorial management are mixed. This leads to violation of the mechanism of optimization of resources distribution, which reduces the produced share of GDP and – through sectorial commodity and financial connections and capital – leads to reduction of public product on the whole. For example, keeping low prices for close phone calls led to serious disproportions in the pricing mechanism and distribution of investments in the sphere of telecommunications.

Conclusions

1. The most important peculiarity of regulation by licensing is multi-target character. While at the very beginning it was used to solve anti-monopoly tasks, starting from 1970’s the usage of this mechanism was expanded for solving the problems of ecology, labor protection, provision of security of consumer products, etc.

2. The most important direction of prevention of monopolization should be creation of organized

markets and commodity markets, which should be sometimes made the only place of conclusion of deals for selling the products of a range of spheres – especially those based on mass production of homogeneous products – grain, oil products, natural gas, metals, etc. This expands the limits of regional markets and complicates monopolistic pricing.

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