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## **CONTRADICTIONS OF PARTICIPANTS INTERESTS OF MARKET CONCENTRATION AND THEIR PARTICULAR FEATURES IN UKRAINE**

The article shows an author classification of market concentration subjects. Economic interests of each participants of these processes were analyzed and possible contradictions between them are exposed. The ways of elimination of contradictions between interests of market concentration participants in Ukraine is suggested.

**Keywords:** economic interest, market concentration, opportunistic behavior, mergers and acquisitions, raid.

**Statement of the problem.** The processes of concentration, which is characterized by the development of modern national and international markets undergo significant changes under the influence of increasing globalization and deregulation of economic relations. This is especially evident in the expanding geographic and product market boundaries, the use of new methods of competition and forms of concentration, as well as expanding the list of entities that participate in these processes. Under these conditions, the transformation of economic interests of the latter, are increasingly contradict one another. This has a negative impact on the results of concentration for most businesses and on the efficiency of the market and the economy. Especially acute these differences manifest appear in countries with in transition economies and developing countries.

The negative impact of the processes of market concentration on the intensity of competition in the domestic market under conditions of incomplete transformations and deformation of the existing market economy leads to an urgent need to identify the main differences that arise between the interests of participants in these processes and finding solutions to enhance the positive impact of concentration on economic development.

**Analysis of recent research and publications.** Theoretical aspects of the market concentration have been widely covered in the economic and legal literature of the second half of

the XX century. Significant contributions in the study of this problem among domestic scholars have V. Bazylevych, A. Gerasimenko, A. Ignatiuk, V. Lahutin, A. Lozova, Yu. Umantsiv etc. In their works scientists analyze the necessity and effects of market concentration, assess its level in the commodity markets and offer more effective ways of controlling these processes.

**Cover of earlier unresolved parts of the general problem.** The question of identifying the main differences between the interests of the participants concentration markets and opportunities for overcoming them, in our opinion, did not find adequate coverage in the national literature.

**The aim of the article** is analysis of the differences that arise between the interests of businesses subjects in their participation in market concentration and to identify opportunities to overcome them.

**The main material.** The current development of domestic markets for goods and services is characterized by the active participation of enterprises in the process of concentration. In the economic literature there are many approaches to determine their nature. In theory Cooperations market concentration is defined as the characteristic of its structure, which reflects the relative size and number of companies that offer products [1, p. 87]. Professionals on antimonopoly control define this concept as the concentration of economically important indicators or characteristics in the hands of a

small number of businesses in which accumulated material and Representative Government [2, p. 56]. We proceed in terms of approach and behavior approach under market concentration the system of social and economic relations that arise between economic actors in the process of building market share by market participants is understood.

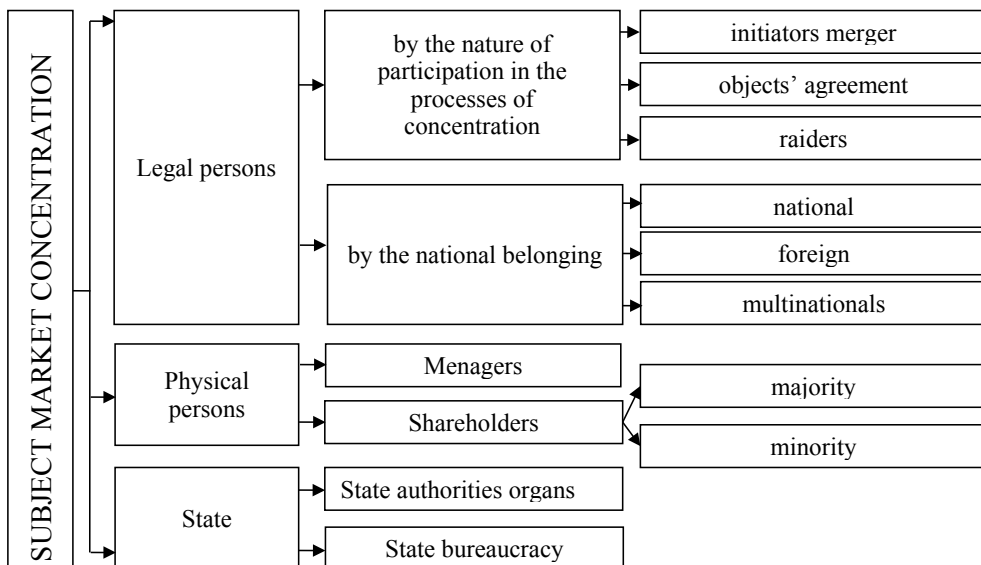
Concentration of market in modern conditions can be done in two main ways. First of all it can be a result of the concentration of capital that is increasing its size by using a portion of profits to expand production [3, p. 253]. Concerning that the increase in market share in this way requires a significant investment of time in business practice market concentration is much more the result of amalgamation (merger or acquisition) companies producing similar or related products. It was during this interaction entities defend their own interests, which often do not coincide or conflict with the objectives of the state of competition policy.

The choice of a particular form enterprises participating in these processes depends on the behavior of all economic agents, which is determined by their needs and interests. For better understanding and clarification the nature of recent conflicts, the occurrence of which they determine is necessary to identify subjects

whose behavior affects the nature and form of market concentration. In this regard, it is necessary to have precise classification.

We believe that all subjects' market concentration can be divided into three main groups – legal entities (companies), individuals and the state (look at pic. 1). Enterprises are directly involved in the process of mergers and acquisitions, while trying to realize their interests, the main of which is profit, increase their own economic power in the market and achieve capital appreciation. Depending on the role in which the entity is involved in the processes of concentration and his nationality, interests and needs of market actors may vary. Thus, for the object of the transaction can be a primary goal of survival in the face of fierce competition for the raiders – a quick profit from speculation, and for foreign companies and multinationals companies – strengthening of its own presence in the domestic market of the country.

To the second group of subjects of market concentration consrn individuals – the owners and managers who are involved in these processes. Although they do not directly involved, their personal needs and interests have a significant impact on the results and processes of concentration. In particular, taking the relevant decisions of the company's shareholders out of



**Pic. 1. Classification of subjects market concentration**

Source: author's developing

the need to increase the market value of their own company to improve its reputation and receiving dividends. However, senior managers typically pursue only one goal – to improve their welfare.

Consider the fact that the owners and managers is a necessary condition for the existence of each entity that is a party to the merger or acquisition, we believe that interest entity should be considered as the sum of two components: 1) the public interest company, which aims to meet its activities (profit support productive capacity maintenance market position) and 2) the individual interests of its internal stakeholders (shareholders, managers, employees). Their implementation in modern conditions is characterized by a high degree of uncertainty, the dynamic changes of their environment and the ever increasing influence of globalization.

The last subject of market concentration is state, which represented the state authorities imposed regulatory functions that occur in the implementation of antimonopoly control over these processes. However, the state bureaucracy, pursuing personal goals through lobbying individual market participants can promote the participation of some enterprises in the process of market consolidation and restrain others.

Consider this diversity of actors concentrations markets and emerging conflicts between their interests. Even R. Kouz drew attention to the fact that market actors «taking care of their own interests, exert actions that facilitate or impede the actions of others» [4, p. 28]. At the beginning of the XX century activities of all contractors consistent first «invisible hand of the market», in today's increasingly experiencing problems related to neglect the interests of certain groups of people, such as minority shareholders of companies that are subject to takeover, state etc. In this regard it is necessary to introduce additional institutional and legal provisions to guarantee the realization of interests of each subject.

In the process of concentration of markets companies are trying to satisfy their main economic interest – profit. With this aim they unite or absorb other business units and thus increase its presence in the market, meet the growing demand of consumers and trying to take over the exclusive market position. This is especially

true of companies-buyers in the case of mergers and companies-aggressors on the acquisition. However, very often these powerful desires in the financial aspect of businesses do not coincide with the interests of less powerful partners.

Controversy interests of market concentration resulting from opportunistic behavior of one of them. This behavior can acquire exogenous and endogenous nature. External opportunism manifested in the implementation of transactions between entities that actually are the result of mergers or acquisitions, corporate raiding, greenmail etc. That is in fact gives rise to conflict of interests of various businesses. Regarding internal opportunistic behavior, it is associated implementing their own internal interests of stakeholders (managers, employees or shareholders) against the rules and by other entities.

Exogenous opportunistic behavior can occur already in the process of signing the merger. A striking example is the merger nonequal conditions under which shareholders participating companies have different shares (shares) in the share capital of the newly established companies [5, p. 190]. For example, at the confluence of the Swiss commodity trader «Glencore» and mining company «Xstrata», the latter for his share of each share was 2.8 stock «Glencore». On the one hand, the merger nonequal conditions usually are caused by differences in capitalization companies, on the other – leads to the fact that the target company shareholders decreased ability to influence decision-making and, therefore, to defend their interests.

Besides the process of merging into nonequal conditions are often not satisfied with the interests of the target company managers. This situation contributes to the opportunistic behavior regarding past owners of the company. In fact, the association for them two choices: either to bargain with the acquiring company, guided by self-interest (saving his own job after the merger), or traded while protecting the interests of its shareholders, trying to get the highest possible price for the assets of [6, p. 126]. Both variants give rise to conflicts between the interests of managers and shareholders of target company. In the first case, managers receive greater benefits as a result of the transaction, compared with shareholders. This is under-

standable because top managers, who lost his position as a result of acquisitions, it is difficult to find jobs in other companies. If managers act in the interests of shareholders, it usually leads to neglect their own interests, resulting in a loss of work.

More controversy arises between the parties to the merger immediately after the transaction. O. Uiliamson said that with the slightest possibility of violating the terms of commercial agreements in their favor, if it is in their long-term interests [7]. In the process of market concentration is clearly seen if it appears that the merger of the newly established company has reached such large proportions that it harms its activities. The company is the subject transaction tries to maintain its production facilities and staff under these conditions. It is not always possible, especially in situations where union was not on equal conditions.

The contradiction between the interests of partners in the merger may also occur as a result of hiding the true intentions of one of the participants on the future direction of the newly created entity unfair disposal of property acquired objects financially weaker partner, use a strong position at the expense of violating the accepted partner agreements [8, p. 71]. However most urgently develop and have greatest manace of conflicts of interest that arise in the process of hostile takeover.

If the takeover occur based on speculative grounds, it is usually used greenmail in which completely ignored the interests of the company – the object of absorption. The company aggressor is doing everything possible to create intolerable conditions of work, including the convening made extraordinary shareholders, submitting a large number of lawsuits, complaints to various regulatory bodies and a number of other measures aimed at forcing management company aims to buy overpriced shares at the hands of the aggressor. This results in a decrease in the efficiency of resource offerings, increased costs, which does not correspond to its interests. Activity greenmail helps loopholes in legislation and the most corrupt officials.

It should be noted that the problem of conflict of interests of victims and company absorber is particularly relevant in the Ukraine. This is confirmed by the following facts. If annual volume

segment of mergers and acquisitions in Ukraine is estimated at approximately \$5 milliard dollars, according to the estimates of investment companies is two thirds of its hostile takeover, which take the form of Ukrainian realities raider attacks. Enterprises' take over in the national economy practice about 50 raider groups, the results of which is up to 90% [9, p. 130]. The problem rises in Ukraine every year. Thus, if in 2010 the Interdepartmental Commission on Combating illegal acquisition and takeovers reviewed about 900 applications for hostile acquisitions (75 applications per month) in December 2011 their number was already 200 [10].

This situation is explained by the low level of protection of private property in Ukraine and imperfection of domestic legislation. This is confirmed by data on the index of economic freedom, according to which this indicator Ukraine in 2013 ranked 16-th place among 177 countries in the world and index that characterizes the efficiency of legal system and protection of property rights it is on the 94-th place [11, p. 445-446].

Really, the national legislation does not clearly spelled out rules of corporate relations and that is why corporations often become targets of hostile takeovers and corporate raids. In addition, the existing legal framework does not contain the explicit procedures absorption characteristics by which these processes can be classified as legal or illegal and there is no general mechanism for evaluating the impact of mergers and acquisitions in the market and the companies that operate on it. Even worse situation is with the protection of property rights (according to analysts, the figure in Ukraine is one of the lowest in the world). Thus, the index of property rights protection Ukraine took place 118 among 130 countries (the index is 4 points). In this sub-index parameter which characterizes the political and legal environment and which includes an assessment of the judiciary, rule of law, political stability and control of corruption, the country also has a very low position – 104 position (3,6) in the world and 23 from 24 countries of Central and Eastern Europe [12].

Special attention should be paid to conflict that arises between the interests of managers and shareholders. According to representatives of institutional theory

M. Dzhensen and V. Meklinh, the source of conflict between corporate managers, acting as agents of the owners of the company and is owned directly by the last payment of their income as dividends [13]. The payment of dividends, return of capital towards redemption of shares and other similar actions reduce the amount of the resource base of the corporation, resulting in reduced capacity management becomes a more flexible financial management resources. It creates certain difficulties and problems for managerial company, because usually there is much greater scope for market analysis resources and their involvement. The use of internal resources by reducing or non-payment of their profits to shareholders makes it possible to effectively manage the finances of the corporation.

Managers are not seeking to maximize the interests of its shareholders under agency theory. In the base of their work are their own interests that do not always coincide with the interests of shareholders. If the evaluation of senior management is largely dependent on sales growth rather than the rate of return for shareholders, then managers may conclude agreements on mergers and acquisitions, guided by their own interests, not the desire to increase shareholder wealth. In some cases it may appear negative on the structure of the market in which the corporation operates them.

The problem is exacerbated by the fact that large companies with complex organizational structure, the ability of shareholders to monitor managers is limited. The desire of managers to avoid supervision by the owners of one of the strongest motives to participate in a variety of corporate conflicts are exacerbated not only in the process of mergers and acquisitions but also in the division of business or other ways of reorganizing the company.

Besides conflicts which arising between the private interests of business entities in the process of market concentration there is also a contradiction between private and public interests. The level of consolidation in the commodity markets primarily depends on what the «rules of the game» established by the legislature in the implementation of economic policy. Their peculiarity is that they should reflect the interests of the state as a public concerning issues of competition and private enterprise interests.

In the process of market concentration some public interest realization of which is provided by the legislative and executive government's branches, as contrary to the interests of market actors and interests of officials who represent these authorities. There is a conflict of interest between the objectives of the policy sometimes. From the one hand, art. 42 of the Constitution of Ukraine proclaimed the need for competition in business and therefore limit the maximum level of concentration and the from the other – in the Strategy of Innovation Development of Ukraine for 2010-2020 in globalization challenges the primary goal of public policy declared ensure competitiveness and increasing innovation activity of enterprises. The last is impossible in conditions of development of the national economy only through the use of internal funds of economic entities and therefore requires combining several companies (including those that act at the same market) which accordingly affects at concentrations commodity markets.

Experience of resolving this contradiction is interesting in countries with developed market economies. Particular experience of government regulation in France, Germany, South Korea and other countries shows that their competition and industrial policy, primarily aimed at investigating companies not to regulate an entire industry. The result was the education of the so-called «national champions». For example in France in every industry were created one or two large companies, competition was that a large number of small and medium enterprises. Company leaders had to compete with foreign enterprises in world markets. The main criterion for selection was the level of technological development entity in a particular commodity niche [14].

It should be mentioned that this scenario does not always work in countries with transition economy. Moreover, it is a threat expression of opportunistic behavior on the part of businesses that occupy a unique position regarding public policy objectives. The privileges granted by the state for activities in foreign markets, they can be used to achieve a monopoly or even a dominant position in the internal market.

The process of selecting companies to «national champions» can be distorted. Results of the process of privatization indicate that

in Ukraine. Get the company to be a «league elite» only close to government officials, as in this case their economic interests will coincide. This will lead to a number of negative consequences such as unjustified distortion of competition and increased concentration in domestic markets, low competitiveness in global markets (as accumulated resources will not be directed at improving the goods and the expansion of activities within the country), inefficient allocation of public resources that lead to underfunding of whole industries, the growth of social discontent etc.

High probability of such a scenario in developing countries and countries with economies in transition is explained because they are characterized by high level of corruption in government. Thus, Ukraine takes 144-th place by Corruption Perceptions Index in the world [15]. Extremely low values of the index are characterized by the development of all countries in the post-socialist camp, which makes it possible to assign them to the category of highly corrupt. In this regard, we can conclude that the strategy of «growing national champions «in these countries will not bring good results.

However, in most industrialized countries the interests of strengthening the position of national companies in the world market given absolute priority in comparison with the principles of free competition, according to which products the market has to offer a large number of manufacturers and demand between them should be evenly distributed. Ukraine should implement such effective economic experience in his own practice in order to ensure the competitiveness of its products in the international market, taking into account the specific conditions of the national economy and historical development.

Given the fact that the conflict of interests of multinational corporations and national enter-

prises and the state covers large economic level and is due to the larger number of factors it will be subject of our further research.

**Conclusions and propositions.** The existence of a large number of contradictions between the interests of the parties' market concentration has a negative impact on development as the market environment and the economy in general. It is necessary to combine formal and informal measures of institutional adjustment to their partial or total removal. National competition policy should be consistent with the objectives of industrial policy to ensure «healthy» economic competition and a high level of competitiveness of domestic products. In addition, it is necessary to develop measures to intense struggle against green mail, raiding and lobbying the interests of individual business groups in the state bureaucracy.

Together with the creation of appropriate, effective institutional surroundings, based on a set of formal rules and regulations in order to mitigate the conflict between the interests of different stakeholders of market concentration should be formed by a series of informal institutions. They should include a set of unwritten principles, norms and recommendations of the behavior of companies in the competition struggle in general and for their participation in the process of consolidation in particular. Their violation will cause extensive feedback.

A number of civil organizations and media devices will be initiated a public discussion of companies' offenders that will be marked negatively on their image and cooperation with other market counterparties. This will ensure achievement of two goals simultaneously by state: 1) improving the culture of competition in the business sector in particular and society in general; 2) encourage enterprises to responsible and fair actions towards their partners in the process of concentration and competition struggle.

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