

REGULATION OF MONOPOLIES IN ECONOMY EXPERIENCE OF THE REPUBLIC OF KAZAKHSTAN

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The summary

Article is devoted to the problem of managing subjects exclusive and dominating in the market. The urgency of carried out research is caused by specific character of monopoly in the Post-Soviet economy of the Kazakhstan which was generated as a result of demonopolization of the Soviet monopolies and spent privatisation of a state ownership.

Theoretical and methodological approaches to definition of essence a category monopoly and a leading position is opened. Criteria of an estimation of domination degree of domination of subjects in the market are presented. Abusing consequences by managing subjects the leading position on an example of economy of Kazakhstan are analysed and estimated. The author, on the basis of practical data of antimonopoly department of Kazakhstan, gives an estimation of a spent antimonopoly policy and recommendations about increase of its efficiency are presented.

Monopoly is a phenomenon of an economic life of a human society. It represents "prism" through which all fundamental economic problems are considered, and acts as prominent feature of modern social and economic relations. The monopoly has dual character which is shown in the social and economic effect, and is brought it to a society. Therefore the relation to monopoly is ambiguous. Allocating negative consequences from monopoly presence in the market many researchers focus attention on necessities of its full interdiction. But the present stage of development of economic relations, level of technics and technology cause more rational approach to existence of monopoly which is defined by positive economic benefit of their activities. The monopolies possessing, the essential power are necessary for economical achievement of fast rates of economic progress. This statement is caused by that in modern conditions research activity on creation of a new product and new technologies are very expensive process which are presumed only by the large managing subjects possessing solid financial resources. There upon the barriers created by monopoly, give it's certain confidence of profit reception, a part from which it can direct on research and development. About such properties of monopoly spoke J.Shumpeter and J. Gelbrait. Under the statement of J. Gelbrait: «The modern branch from several large firms is excellent means for stimulation of technical change. It is excellently provided for financing of technical workings out. The organization creates strong incentive motives to undertake workings out and to use them. The modern branch it is divided into several large firms, with sizes and profits are

proportional to market force, incorporate to provide availability of resources to scientific researches and workings out. The power which does possible for firm to have some influence on the prices, provides that following incomes will not be transferred public by imitators (which did not bear any expenses for workings out) before expenses on workings out can be compensated. In this case the market power protects stimulates to technical workings out». [5]

Kazakhstan is the country which has carried out transformation from economy of socialist type to socially focused market economy. In the conditions of management system of managing national economy monopolisation has got special scale. The internal resources of monopolisation saved up in this environment cannot be explained within the limits of a neoclassical paradigm of an economic science as they were generated in institutional conditions, opposite to conditions of classical market economy. O.Bessonov defines it as the relations of distributing economy meaning suppression of the private initiative and refusal of the mechanism of a market competition. "Scale effect" was [4] imperative of a management system - the high production concentration ratio provided specific competitive advantages both in the country, and on behalf of all national economy in the world economy. The tendency to concentration of manufacture any time corresponded to requirements of development of industrial system and cause the monopolized structure of economy. The competition between high-concentrated economic structures was in every possible way stopped, the state legally considered the given process as scale threat of integrity and efficiency of functioning of a management system. However, owing to action of economic laws, concentration cannot be carried out infinitely long, there are limits of its efficiency at which achievement return process will begin. As it happened with economy of the USSR and Kazakhstan as to a part of uniform economic system. There was a full-scale display of negative consequences of activity of monopoly that has led to the general stagnation in economy.

Got in the inheritance high-concentrated manufactures have proved to Kazakhstan the inability effectively to function in new market conditions that has caused necessity of their demonopolization and the subsequent privatization. However, owing to character of the organization of market economy at the development present stage again created enterprises which began to unite in the new integrated market structures, but already on the basis of economic feasibility, advantage and efficiency. Many branches of economy of Kazakhstan continue to keep exclusive structure, operate from 1 to 3 large manufacturers.

It is necessary to notice, that the situation of pure monopoly with the boundless power is only theoretical assumption which does not meet in a real life, therefore for the characteristic of monopoly researchers use the term «the dominating company» or «the managing subject occupying

a leading position». In world practice the category "leading position" is estimated by two criteria - structure of the market and character of activity. For example, in the legislation of EU the leading position is treated as [3]:

- the situation at which the enterprise possesses the economic power, allowing to prevent an effective competition and to operate, without taking into consideration the competitors, buyers and sellers;

- position at which the enterprise, owing to a market share, owning technical knowledge access to raw and to financial resources, has possibility to establish the price or to supervise manufacture or distribution of a considerable part of production in the relevant market.

In the allocated definitions domination does not assume full monopolisation, and grows out of strategy of the enterprise for achievement of competitive advantages and the corresponding economic gain which has arisen by display of own initiative or as reaction to actions of competitors.

According to the Typical law «About a competition» [8] as a leading position it is necessary to consider «such situation in the market when any enterprise operating or is independent, or together with the several other enterprises, possesses possibility to supervise the corresponding market of the concrete goods or service or group of the goods or services». Such definition specifies in possibility of collective domination or domination of "group of persons".

According to the legislation of Kazakhstan, the dominating is understood «as position of the subject of the market (or several subjects of the market) in the corresponding commodity market, giving to the subject of the market (or to several subjects of the market) possibility to supervise the corresponding commodity market including to make considerable impact on the general conditions of the reference of the goods» [1].

Criterion of reference of the subject of the market to dominating is occupied with it in the market the share which accepts following values:

- «a share of the subject of the market, in the corresponding commodity market, a component of thirty five and more percentage;

- the cumulative share no more than three subjects of the market which possess the greatest shares in the corresponding commodity market, makes fifty and more percent;

- the cumulative share no more than four subjects of the market which possess the greatest shares in the corresponding commodity market, makes seventy and more percent;

- the cumulative share no more than two financial organizations which possess the greatest shares in the corresponding market of financial services, makes fifty and more percent;

– the cumulative share no more than three financial organizations which possess the greatest shares in the corresponding market of financial services, makes seventy and more percent ». [1]

According to the author, only for an estimation of degree of domination of managing subjects in the market is not enough quantitative criteria. So, for example, in the Republic Kazakhstan Law «About a competition» in definition of the fact of domination the quantity indicator «shares in the corresponding commodity market of thirty five and more percent» is solving. [1] Such position can lead to a situation at which the subjects of the market which do not possess the big share of the market, but have possibility is essential to influence trade conditions in the market, can and not to be recognized by dominating. And on the contrary subjects of the market not possessing the essential market power, but having a share in 35 % can be recognized by dominating. Owing to such omissions business the economy environment becomes even more uncertain with the raised risk and restriction of possibility of expansion of business, and without large business the national economy cannot be stable.

Therefore, for increasing of an overall performance of all economic system, it is necessary to bring to the legislation on a competition respective alterations under the account of a complex of factors of domination of the separate subject in the market of certain production which concern:

- features of structure of the market - presence and the size of other subjects in the given market, their market shares;
 - character of demand and possibility to establish the price unilaterally;
 - degree of influence on trade mark consumers;
 - character of a competition in the market and probability of occurrence of new competitors;
- Presence of the essential market power.

In the legislation of Kazakhstan it is necessary to concretise signs of domination of the managing subject in the market, having specified in addition to an occupied share still such condition as, for example, an invariance or susceptibility to insignificant changes of a share of the subject in the commodity market. For example, in Russia in cases when the subject of the market supervises from 35 % to 50 % of the market, for its recognition dominating presence of following additional factors is required:

- 1) an invariance or susceptibility to insignificant changes of a share of the subject in the commodity market;
- 2) the relative sizes of shares of competitors in this market;
- 3) access possibility on this market of new competitors.

There is an original gradation of subjects on degree of domination which assumes application of corresponding measures concerning degree of their domination in Europe. Such groups of the domination, has defined on the basis of an occupied share in the market, act: the group, certainly not dominating subjects - a share to 25 % of the market, group certainly dominating - a share of the market above 70 %. All other positions are estimated taking into account various additional factors: 25-40 % - are visible, not dominating; 40-50 % - are possible, dominating; 50-70 % - are visible, dominating. [7] such gradation of chances of domination of subjects of the market allows to concretize methods of antimonopoly influence applied to them, with a view of not assumptions of strengthening of the exclusive power and simultaneously, maintenance of efficiency of their functioning.

For an establishment of the fact of domination the Antimonopoly agency of Kazakhstan carries out the analysis of the commodity markets at which degree концентрированности the market is defined and dominants come to light. So, according to antimonopoly department, in economy of Kazakhstan monopolized and high-concentrated markets throughout long time there is a railway branch, a fuel and energy complex and telecommunication sector. These commodity markets keep stability of a share of domination of subjects of the market from 60 to 100 %. [9] Dominating subjects of the market are brought in the State register of subjects of the market occupying dominating or a monopoly position (further the Register). Dynamics analysis supplement the given Register testify that within last three years, the tendency to growth of quantity of dominating subjects of the market remains. In the given Register in 2007г. 754 subjects, in 2008г consisted. – 969 subjects. But in October, 1st, 2009 in the Register, 944 subjects consisted of them in sphere of a fuel and energy complex - 249 subjects; in transport sphere - 165 subjects; in communication sphere - 34 subjects; in sphere of other branches - 495 subjects; in sphere of the financial markets - 1 subject. More than half of the subjects consisting in the Register, concern a category of small monopoly, i.e. dominate at local level of separate areas and cities; an order of 20 % of the companies dominate at national economy level. The largest dominating subjects in sphere of oil and gas sector are joint-stock company "NC" KazMunajGaz », Open Company" Tengizshevroil ", the Chinese National Oil and gas Corporation (CNPC). In a mountain-metallurgical complex joint-stock companies «Akselor Metall Temirtau» which in aggregate supervise a share of the market of an order of 77 % are dominating« ENRC ", " Kazakhmys Plc ».

Leading position strengthening is promoted by economic concentration, therefore definition of its level and the control over it acts as a priority of antimonopoly body of Kazakhstan. The

control over processes of economic concentration is expressed in preliminary reception by subjects of the market of the consent of antimonopoly body on realization of transactions in a case, when:

- cumulative balance cost of actives reorganization subjects of the market or the purchaser, and also the subject of the market, the action (participation shares, shares) with a vote in which authorized capital have got or their total volume of realization of the goods for last fiscal year exceeds two million multiply size of a monthly settlement indicator;

- one of the persons participated in the transaction, the subject of the market occupying dominating or a monopoly position in the corresponding commodity market is;

- cost of actives or size of own capital of the financial organization exceeds the sizes established by antimonopoly body together with the state body, carrying out regulation and supervision of the financial market and the financial organizations.

At aspiration to carry out economic concentration it is necessary for subjects of the market to submit to antimonopoly department the petition on which data on manufacture volumes, on realization of the goods in Republic Kazakhstan are without fail applied, about volumes of export and import of the goods of the subject of the market (group of persons), including the forecast for three years forward. Antimonopoly department spends careful check of possible consequences from realization of economic concentration and on the basis of the received results the decision on the consent or refusal makes.

As separate category of monopolies in economy of Kazakhstan the state monopolies and the dominating foreign companies act. The state enterprises can occupy exclusive or a leading position in the market, in connection with position of the legislation which have given to the state the right to limit a competition in those fields of activity in which realization of the goods in the competitive market can make negative impact on a condition of the constitutional system, national safety, protection of a public order, the rights and freedom of the person, the health of population. Manufacture, sale, purchase or using such goods is the state exclusive right. Therefore, in case of the state monopoly acting as the dominating subject in the market, the certain set of methods of its regulation which can be expressed in prohibition to it is required:

- to make the goods which are not concerning sphere the state monopoly, except for the activity technologically connected with manufacture of the goods;
- to own actions (shares of participation in the authorized capital), and also otherwise to participate in activity of legal bodies;
- to concede the rights connected with the state monopoly.

Similar strict measures promote restriction of possibilities of the state monopoly to abusing the position. As an example of abusing such situation with The state municipal enterprise "Almatysher" acts. Akimat of Almaty have been brought in charter of the state municipal enterprise "Almatysher" additional kinds of activity which have given it possibility to participate in the competitive market. These actions have allowed The state municipal enterprise "Almatysher" to carry out mediatorial functions for compensation in volume of 5 % and have led to reception of unreasonable advantages in enterprise activity, by elimination and competition restriction. Almost same situation has developed with State institution «Department of ground relations of the city of Ust Kamenogorsk». It gave advantages to concrete subjects of the market by quantity ground constructional projects which have put them in exclusive position in relation to other subjects of the market.

The case when as the dominating company in national economy the foreign company or the company with foreign participation acts, besides abusing the position is separate. For example, the group of Chinese companies CNPC is the subject of the large integrated multinational corporation of a world scale that oil extracting gives the chance to it using to dominate all advantages of the integrated structure in national economy of Kazakhstan in sector. Abusings CNPC are expressed in its disinterest in development of oil refining and thereupon restriction of deliveries on Shymkent oil refining factory (ORF). ORF does not provide full loading of the capacities in connection with deficiency of deliveries of raw materials, let alone modernisation of the equipment and release of a high-quality product. Similar abusing CNPC carries out during the periods of sharp growth of demand on inflammable lubricants that conducts to strong increase of the prices for them. In last large increase of the prices for PETROLEUM PRODUCTS in Southern Kazakhstan in October-November, 2009 of stabilization of a situation it was possible to achieve only as a result of intervention of the state which through National company "KazMunaiGaz", has provided delivery of raw materials on Shymkent ORF that has allowed to liquidate deficiency inflammable lubricants for short time. Whether action of the national company has been made to the detriment of its economic interests, or quite profitable strategic decision it is not known. The foreign investor who has created the preconditions of a price agitate has not felt any consequences.

The fact of presence of the dominating subject in the market is not the negative phenomenon as experience shows high enough efficiency of activity of such subjects and positive influence from their presence on economy as a whole. But domination acts as that border behind which supervision over processes of concentration and behavior of subjects of the market possessing the essential market power begins.

Abusing a leading position renders the greatest negative influence on efficiency of functioning of economy. Those actions or inactivity of subjects of the market occupying dominating or a monopoly position which have resulted admit «or can lead to restriction of access on the corresponding commodity market, not allowed, to restriction and elimination of a competition and (or) restrain legitimate rights of consumers». As a whole most often applied abusing can be divided into four groups, depending on used methods and the pursued purposes as which abusing in pricing sphere act, by means of overestimate of understating of the price and representation of price discounts; abusing by means of realization of vertical restrictions; abusing presented by refusal in realization of delivery of the goods; abusing in the form of discrimination. According to antimonopoly agency in Kazakhstan of an order of 51 % of all infringements of the antimonopoly law revealed in 2009, it was necessary on abusing a leading position. Among them of 66 % it is necessary on infringements of managing subjects of the fuel and energy complex acting most high-concentrated as sector of economy.

Presence of abusing by a leading position from subjects of the market causes necessity of suppression and inadmissible such behavior from the state. In this case, active inclusion in market process, using as the tool of the policy an establishment of legislative frameworks and restrictions on the ways of dominating subjects which are not giving the chance to them to apply the position to the detriment of associates should become strategy of behavior of the state concerning the dominating subjects of the market abusing the position.

The dominating subject in the market repeatedly abuses the position is possible and does not react to instructions of antimonopoly body about the termination of abusing. In this case antimonopoly department can take measures on compulsory demonopolization of the subject of the market, by means of division of the subject and allocation from its structure of structural divisions. A necessary condition for acceptance of the similar decision is:

- absence of technologically caused interrelation of structural divisions;
- existence of possibility of independent activity in the corresponding commodity market for the legal bodies created as a result of reorganization.

The spent policy of demonopolization should be based on principles of "rationality", a rationality and increase of efficiency of activity of managing subjects. According to a principle of "rationality" of action of the managing subject it is estimated from the point of view of encouragement or competition restraint. Demonopolization should pursue the aim of the creation of the effective competitive environment in economy that causes necessity of careful studying of a

situation in the market and definitions non-alternative demonopolization as means of restoration of a competition. After all as a result of division of the managing subject the probability of remains that its competitors can find the essential market power also promoting their domination in the market.

The rational principle assumes carrying out of an antimonopoly policy which concerning dominating subjects on purpose do not interfere with industrial progress and estimates activity of managing subjects proceeding from the basic thesis, that: «High profitability of the large company on the size does not grow out of excessive domination in the market or the exclusive power, and follows from the high efficiency provided with a positive effect of scale, effect of a variety, long experience of stay in the market». Even if there is a statistical communication between costs of concentration and profitability, this communication should be estimated dynamic, instead of static way. « It is obvious, that there can not be a competition without competitors. But it doesn't seem to people so obvious, that the competition also is impossible, if it is forbidden to competitors to undertake the actions which purpose is the increase in their share in the market ». [6] On belief of the English economist of M.Besta:« Pursuing associations and interfirm agreements, the state in essence loses possibility effectively to operate antimonopoly process. Interfirm cooperation suppressed by the legislation all the same develops, but in the companies of less effective ». [2]

Demonopolization promotes activization of the competition, but at its rash application concerning industrial complexes is fraught with negative consequences. It is possible to carry them: liquidation of advantages of cooperation; rupture of economic communications; growth transaction costs; easing of research base, owing to ability loss to conduct research and developmental works; decrease in concentration of the manufacture, conducting to efficiency easing. These consequences are actual, as the large economic complexes generated in centralized economy, have the features and represent the uniform industrial-economic associations formed on the basis of deep cooperation of specialized manufactures. Use at into smaller units such associations not economic efficiency reasons, and arrogant aspirations of heads of industrial and economic links and political issues, lead to certain negative consequences in economy - control loss over a complete industrial-distributive cycle.

Owing to rupture of economic communications in the absence of the adjusted provision-marketing network one managing subjects face a problem of maintenance of manufacture by necessary resources, and others - with a sale problem, that, in turn conducts to compression of demand for production of industrial appointment and decrease in economic activity. As a result of narrow of industrial base concentration of financial resources and possibility of maneuvering by them, leading to deterioration of financial stability of the managing subject decreases. Autonomism

of intermediate links causes strengthening of exclusive displays in the form of price dictatorship, and autonomism of scientific divisions conducts to a situation when manufacture loses scientifically-experimental base.

Control of activity of those exclusive structures should become the priority purpose of antimonopoly department, dismiss which is not expediently and it is not obviously possible. As the core methods of indirect regulation which should be carried out in following directions should be used:

- Creation of possibilities for course in economy of any processes promoting demonopolization: granting of as much as possible wide rights on initiative, going "from below", breaking up into smaller units manufactures, to the creation of the new enterprises decentralized tint of the capital;
- Stimulation of any processes directed on occurrence of economic subjects with equally directed by opposite interests at which the aspiration to rivalry prevails over aspiration to association. For this purpose the combination large and a small-scale production, the enterprises with different patterns of ownership and managing is necessary.

Influence on the subject of the market should induce the carrier of the exclusive power to such line of action as though there was a full competition. It is necessary to admit the general business rules developing in the markets in the course of execution of laws, but not conditions of the conclusion of transactions which deviate legislative regulation to the detriment of one of the parties in the contract.

Thus, the priority in realizations of a policy of regulation of dominating subjects in economy of Kazakhstan should be prohibited abusing the position from the party leaders, to regulation by means of demonopolization in cases when application of other levers is impossible, to strict following to principles of a rationality and rationality at use of methods of antimonopoly regulation.

The literature list

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