

MONOPOLY AND THE PROBLEMS OF ITS REGULATION IN ARMENIA

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In the public perception the term "monopolist" has gone through certain stages of development. If at the beginning of the 20th century this term was used in a narrow sense as marketer's relationship with a single vendor and many buyers (or one buyer and many vendors), further along with the adoption of the legislation of competition protection and the state regulation of these relationships it has gained the application of economics and jurisprudence in its broadest sense in which the regulation settlement is based not on the fact that it is the only subject in the market but the degree of the economic authority of the market which will allow him to abuse that power.

The global experience of competition protection currently proves that in terms of competition and/or the interests of the consumers, it is not important whether the farmer is abusive- the monopolist or the market-dominated business runner (hereinafter referred to as M and MDBR). In both cases the economic consequences are the same, market entrance barriers are created and consumers' interests are violated. That is why their settings are not differentiated.

Such experience is also used in Armenia. Despite the fact that in the law on competition protection M and MDBR entities have been differentiated, the same levers and mechanisms are applied to both.

Studies show that the regulator does not always give an adequate assessment and show right attitude towards businessmen. In particular, at the beginning of 2018 the interpretation of the inflation related to some provisions of the Tax Code coming into force is disputable in the professional aspect conditioned by the actions of M and MDBR.

Key words: *monopoly, monopolist, product market, dominating position, monopolistic activity, competition protection.*

Introduction

Monopoly as a social relationship

The first experience of scientific analysis of monopolists was made by thinkers of the ancient world. Aristotle argues about the methods of gaining wealth in his essay of "Politics", advises politicians and statesmen to follow the examples of philosopher Tales of Miletus and a Sicilian who were able to monopolize according to their wisdom and timely orientation: the first in the sphere of selling the olive and the second in iron trade gaining large revenues by establishing a smaller margin in their usual price¹.

If at the initial stage of the development of capitalism monopoly there was an exceptional phenomenon in the conditions of free competition, then it gradually gained considerable weigh in the markets of different branches of economy. It was not accidental that, in Adam Smith's opinion, the

¹ Aristotle, records in 4 volumes, vol.4, M., 1983, p. 396-398.

monopoly, given to a particular individual or commercial company, has the same effect as the secret in trade or in manufacturing industry. The monopolist, contributing to the constant deficit in the market and not reasonably satisfying the total demand, sells his product at an even more expensive price than the initial price and increases his revenues².

And what is the monopoly (Monopoly, Monopsony)³. In the literature of economics the term "monopolist" is used to describe the market quantitatively and qualitatively. The term originates from the Greek words "Poleo" (I sell) and "Psoneo" (I buy) and "Monas" (one). It describes such market relationship when the seller (buyer) is one and the buyers (sellers) are numerous. In this regard, in the economic literature, the monopolist is often interpreted as a market-oriented structure with the supremacy of a single merchant or buyer in which there are no substitutes for that product⁴.

The term "monopolist" is often used to describe the size and power of enterprises. However, the concepts of "big firm" and "monopoly" do not always coincide. As C. R. McConnell and S.L. Brune have rightly pointed out, the firm can be large in its absolute sense but relatively small in relation to the whole market. For example, American television producer Zenith is big in terms of sales and employment. But compared to Sonny, it's relatively small⁵.

Monopolies have been manifested in the early Middle Ages in the product markets of Western Europe as an economic phenomenon during the formation and functioning of merchant associations (gilds). However, their rapid development took place in the late 19th and early 20th centuries due to the industrial revolution as a result of the concentration of the economy.

The nature of monopolists was also studied by new representatives of classical economics (A. Curnon, A. Marshall, J. Klark, A.Pigu, E. Chamberlin, J. Robinson, J. Schummaser, D.Ros and others) from the very beginning of their existence. Particularly, A. Marshall was one of the first to pay attention to the positive aspects of the monopolists.

He attempted to find a way to compare the relative size of public benefit and monopoly profit depending on the choice of this or that economic strategy⁶. He also observed the condition of gaining monopoly's maximum profit. Joes Schumpeter also touched upon the positive role of monopolies in the economy. According to him, scientific-technical progress is more rapid than monopoly besides price and non-price abuse⁷. Certainly, in some cases it is possible to agree with such an opinion. Monopolies have the potential to invest in great financial resources and new techniques and technology as well. However, as a rule, this feature is used primarily when there is a problem of

² A. Smith, Research about nature and the reasons of nations' prosperity, Pub.of social ec. Lit., M., 1962, p. 60.

³ The terms of "monopoly" and "monopolist" are used in Armenian. To distinguish the only customer and the only seller and to characterize the market the terms of "monopoly" (as a synonym of Monopoly) and the "monopsonia" (as a synonym of Monopsony) are used respectively. During the researches if there is no need to distinguish these two terms, it is necessary to use the term "monopolist" instead of "monopoly" and "monopsonia".

⁴ See I. M. Albegova, R. G. Yemtsov, A. V. Kholopov, The state economic politics, M., 1998, p. 254.

⁵ See K.R. McConnel, S.L. Bryue, Economics, vol. 2, p. 220.

⁶ See A. Marshall, The principles of economic sciences, in 3 volumes, tr. from English, M., "Progress", 1993, v.2, p. 182.

⁷ See Schumpeter Y., A., Capitalism, socialism and democracy, M., Economics, 1995, p. 130-153.

market expansion or a "risk" of other entities to enter the market. Its striking example was the license of N60 for "ArmenTel" company for monopoly for 15 year in 9 telecommunication product markets under which conditions an artificial deficit was created in these markets and the company started investing in this sphere and to significantly lower tariffs when K-Telecom was allowed to enter the telecommunication markets in November 2004⁸.

The British economist Alfred Pigou, the predecessor of A. Marshal, observed the monopoly from the point of view of its settlement. He considered the state regulation to be extremely necessary. The period of his creation coincided with the period of flourishing and prosperity of monopolists. That is why his object of research is the tendency of monopolization in the economy which has slowed down the growth of public welfare. Taking it into account he was for the regulation of the activity of monopolists through active application of anti-trading legislation. He was the first to use the term "price discrimination" in the theory of economics⁹.

According to E. Chamberlin, the monopoly price is not necessary to be the highest. And the amount of excess profits depends on the availability of market entry barriers. He also discussed monopoly for differentiated goods¹⁰. The first question refers to the monopoly market and certain cases in practice including the presence of small barriers to market entry when the monopolist does not always set the maximum price in case of selling his goods. The second question is also justified and refers to both types of monopoly. However, it is disputable to speak of the existence of monopoly markets for differentiated goods. The problem is that in the modern methodology of product market analysis three borders are defined to characterize the commodity market: commodity, geographical and timely. For the first two borders the price setting parameter is important along with other factors. Due to this, consumer groups have different demand for different types of goods with the same consumer characteristics. Therefore, their commodity markets are also different. Thus, for example, the vodkas costing 10 thousand and 2 thousand drams with the same capacity of 0.5 liters have different consumers. So, even if their sellers are the same, these consumers will have different product markets. If the price of 10 thousand drams becomes 15 thousand drams, it will not affect the purchasing capacity of consumers demanding 2 thousand drams of vodka as they are in different commodity markets.

Another contemporary of E. M. Chamberlin, John Maynard Cain's student J. Robinson also discussed the monopoly from the point of view of the settlement. According to him, as a result of the monopolization of the markets, their concentration tendencies are stabilized, a limited number of companies emerge which concentrate the production in their hands. Due to this they regulate the demand by applying price discrimination¹¹.

⁸ More details in "The basic state regulation issues in the Republic of Armenia", Miqaelyan M., V., Yerevan, Nahapet, 2005, p. 119-122.

⁹ See A. Pigou, The economic theory of prosperity, M., "Progress", 1985, vol. 1, chapter 16.

¹⁰ See E. Chamberlin, The theory of monopoly competition. Reorientation of price theory, M., "Economics", 1996, p. 351.

¹¹ See J. Robinson, The economic theory of incomplete competition, M., "Progress", 1986, p. 117

Conflict settings

In modern economic studies, monopoly is also discussed with different meaning. If earlier the monopoly and monopoly power were identified, now separate researchers are distinguishing these concepts, given the fact that monopoly is not mandatory to have absolute monopoly on the market. Thus, in the textbook of "Economics", S. Fischer, R. Dornbush and Schmallensy did not condition monopoly power by the existence of monopoly. According to them, the seller controls the monopoly power if the price of its product can be increased by reducing production volumes¹². In our opinion, this approach represents monopoly (including monopolists) in a broad (not purely narrow) meaning that is important in terms of settlement. At least it is not essential for the society (consumers) that the infringer of their interests is a pure (with 100 percent share in the market) monopoly or a large market power (for instance, with 80 or 95 percent share).

Research results

Monopoly is characterized by the following 4 criteria in the textbook of "Microeconomics" published by the general editorial of Doctor of Economics, Professor V.G. Galperin: 1) absence of perfect substitutes, 2) lack of market access, 3) large number of buyers opposed to one vendor, 4) perfect awareness (both sellers and buyers)¹³. Here just the monopolistic characteristics are presented. Together with this monopoly, this textbook also regards the term "monopoly power" and Chapter 10 is entitled "The Monopoly and Monopoly Power". In other words, the monopoly is viewed in 'narrow' and 'broad' senses in the textbook. The Economic Explanatory Dictionary (hereinafter, the Dictionary) interprets the term as a "bouquet" of the notion of "monopoly". Despite the similarity of the Russian and English terms (монополия, monopoly), the concepts of "monopolist" and "monopoly" are separated. The term "monopolist" has been used to describe a particular type of market or branch. "1) a market where the number of sellers is so small that each of them is capable of affecting the total amount of the proposal; 2) a large branch in which a small number of firms controls over the full or most part of production (private monopoly)"¹⁴.

The term "monopoly" is also described in a dual sense.

"1) The exclusive right granted to a state, enterprise, organization or a person to engage in any activity. In the market economy it is opposed to free competition. 2) Largest companies (firms, corporations) and/or their associations (cartels, trusts, concessions, corporations, conglomerates). Monopolists concentrate large part of the production or sales of goods and services in their hands allowing them to dominate the market and dictate their conditions to the consumer until the price of monopoly profits."¹⁵.

¹² See S. Fisher, R. Dornbush, R. Schmalensy, Economics, tr. from English, M., "Delo", 1998, p. 193.

¹³ See V.M. Galperin, S.M. Ignatev, V.I. Morgunov, Microeconomics, "Economic school", 1999, vol. 2, p. 75-77.

¹⁴ Kirakosyan G., Ghushchyan H., Tigranyan I., Economic Explanatory dictionary, Y., "Economist", 1999, p. 271.

¹⁵ The same place, p. 281.

As we have seen, at the first sight the concepts of "monopolist" and "monopoly" have been given different contents in the dictionary. Although two terms are presented in a dual sense, they complement one another and both express the same meaning. The term "monopolist" was first partially identified with the oligopolistic market structure with the difference that a small number of vendors separately can not affect the overall supply. The second meaning of that term does not conform to the essence of the concept of "monopoly", therefore, as we have already mentioned, monopolism (as well as monopoly) is a typical market concept. Consequently, it is manifested only in the market and can not be neither a branch nor particularly a production.

The dual sense of the term of monopoly should also be considered respectively. The first meaning is to have the right to engage in economic activity that is opposed to free competition, the second is to have such a marketable, great position (dominating position) thanks to which big companies can dictate market conditions. In the first case, an economic subject can be considered monopolist in a broader sense and/or carry monopoly activities only in case of certain additional conditions. In the second case, the monopoly is presented in a broad sense. As we have already mentioned, "monopoly" reflects one aspect of the concept of "monopoly".

In the economic literature several types of monopoly are separated. E. Dolan and D. Lindsey distinguished between closed, natural and open types. According to them, the closed monopoly contravenes competition by other firms with legal restrictions such as copyright patent protection. In that sense it is close to the monopoly supported by the government. Natural monopoly can be characterized on the one hand as technological monopoly with state support and as a closed monopoly since the level of market protection is higher than the competitors' natural monopoly¹⁶ on the other hand.

According to N. Lukyanichkova, the basis for the general classification of monopoly should be the initial (baseline) division into natural and artificial monopoly according to the following criteria: the role in national economy, the temporal character of monopoly power implementation, the characteristics of the monopoly market behavior, the reasons of occurring and the basics for functioning spheres and legislation¹⁷.

In this article monopoly (including monopolies) is being discussed from the perspective of regulation. Consequently, their classification interests us in the choice of monopoly regulation methods. In this case, we will limit the monopoly by distributing only into artificial and natural monopolies,¹⁸ as, despite the diversity of the criteria of classification, the choice of the regulatory model is conditioned by this criterion itself. Simultaneously it should be noted that the attitude of both the economists and the individual countries is not the same towards monopolies. The latter is

¹⁶ See E. Dolan, D. Lindsay, *Microeconomics*, tr. from English, 1994, p. 190.

¹⁷ N., P., Lukyanichkova, *Natural monopolists. The issues of reforming in transit economics*. M., "Rosekonacad.", 1997, p. 24.

¹⁸ More about the essence of natural monopoly and he peculiarities of its regulation, see Markosyan A., Mkrumyan M., *The state regulation of natural monopolies*, Yerevan, 2002, p. 308.

conditioned by the level of development of the countries, their geographical location and historical period.

Monopoly as a subject of state regulation

According to the theoretical analysis, monopoly is considered in economic literature in narrow sense (pure monopoly) taking into account the 100% share of the shareholder in the market and in broad sense where it is understood such market managerial authority (including 100% market share) when he can impose market conditions.

The worldwide experience of monopoly regulation suggests that artificial monopoly regulation mechanisms and methods apply to a group of economic subjects that have the power to dictate market conditions. Due to this, the concept of "dominating position" has been enshrined in the legislation in all countries with a system of economic competition protection. By dominating position the value of the market power of an economic entity is understood that will enable it to become a price maker and price leader in the market. At the same time, many countries have set aside the monopolistic activities as the regulation body in the competition protection legislation regarding the dominant positions and anti-competitive agreements in monopoly. In other words, the subject of regulation is not monopoly, but monopolistic activity. For example, it is stated in Article 10, paragraph 4 of the Federal Law "On economic competition" of Russian Federation that monopoly activity is the acts of abusive authority of the economic entity and the cooperative activity of group of persons, the acts and concerted actions prohibited by anti-monopolistic law and other actions and (inactivity) recognized as monopolistic activity in accordance with federal laws as well ¹⁹:

The Business Code of the Republic of Kazakhstan also defines the essence and types of monopoly and the mechanisms of its control (Chapter 15, Articles 167-176) ²⁰.

The Law on the Protection of Competition of the Republic of Belarus is called "On counteraction to monopoly activity and development of competition" (hereinafter "the Law") where the content of monopoly activity is defined in the first point of Article 1.12. According to it, monopoly activity is the actions (inaction) of economic entities and state bodies that are contradictory to the law aimed at the prohibition, restriction or elimination of competition ²¹. From the definition of this concept it is not immediately clear what actions or inactivity are interpreted as monopolism. However, Articles 5, 6, 12 and 15 of the Law reflect economic entities (dominant and participating in anti-competitive agreements) and state authorities as well. Certain actions by state bodies (which have

¹⁹ See the Federal Law on Competition protection (with changes in July 29, 2017) of the Russian Federation since 26 July 2006, N 135-ФЗ.

²⁰ See Business Code of the Republic of Kazakhstan (with changes and additions on 28 December, 2016) since 29 October 2015, № 375-V ЗРК. Before this law came into force the RK Law on Competition was into action in 25 December, 2015 (see the Law of the Republic of Kazakhstan since 25 December 2008 № 112-IV «About Competition» (with changes and additions on 31 October, 2015))

²¹ See the Law of the Republic of Belarus since 12 December, 2013, № 94-3 «About contradictory activities of monopolistic activity and the development of competition » (in publishing house since 12 December 2013).

negative impact on the competitive environment) have been seen as a constituent element of monopoly activity.²²

The legislation of the Republic of Armenia also contains prohibitions and restrictions on monopoly and monopoly activity. Paragraph 2, Article 59 of the Constitution of the Republic of Armenia stipulates that restrictions on competition, possible types of monopoly and their permissible limits can be defined only by law for the protection of public interests. The third part of the same article prohibits monopoly or abuse of dominant position in the market, unfair competition and anti-competitive agreements.²³ That is to say the basic law of the country forbids the monopoly activity. The logic of the Basic Law suggests that we must eliminate all monopolies (monopoly) and at the same time do not allow the emergence of new monopolists or set them by law in case they occur. There will be no problem with natural monopolies (regulated public services as well). Such a prohibition is also set out in the RA Law on Protection of Economic Competition (hereinafter RA Law).²⁴ Although the law of the Republic of Armenia does not define the term "monopoly activity", its types and requirements and basic provisions are presented in articles 5, 7, 163 and 36. The problem is to fix artificial monopolies (and in general, monopolists) by law.

First of all, the experience shows that monopolies defined by law are not less dangerous for the society. The striking example of this was the licensure of "ArmenTel" company to operate alone in nine production markets for 15 years. As a result, during these years, no substantial capital investment in the telecommunications sector was carried out and the quality of services in these markets had decreased significantly, the artificial deficit of service provision was set up and monopoly tariffs of these services were high (unreasonably high tariffs). And only in 2004, due to the cessation of single license in November and the emergence of a new operator in these markets, notable investments had been set in this area, the tariffs for services had reduced sharply and service quality had risen up.

Second, in the case of artificial monopolies, the standards that are guided by the monopoly law in certain commodity markets remain unknown.

What is the guarantee that today's "celebrities" will not appear in the list of monopolies defined by law? (experience shows that a significant part of those who receive state aid are those "famous").

Third, the "celebrities" have learned the "lessons" to avoid monopoly long before. It is sufficient that if a commercial organization is created in the name of a citizen of any "lost" state in India which has only one percent share in the Armenian monopoly product market, then we will not

²² In the anti-monopolist and competition protection legislations of different countries the negative influences on competition environment are prohibited (for instance, the Russian Federation, the Republics of Kazakhstan, Ukraine etc.), but they were not considered as monopolistic activity.

²³ The Constitution of the Republic of Armenia (with changes) was adopted in 2015 December 6 by public voting and came into force on 22 December 2015, see the official website of legal information system of Armenia www.arlis.am:

²⁴ RA Law on economic competition, 5 December, 2000, HO -112, http://competition.am/uploads/resources/Law_of_SCPEC_12_04_2011_arm.pdf

have monopoly in that commodity market in accordance with the law.²⁵ In other words, the status of monopoly can always be avoided if desired. The great market dominance of the former "monopoly" on the market did not go down. The 99% share in the market gives the trading company the same chance as in the case of 100%. In such cases, a large market managing entity does not need a monopoly on the market by law to maintain the constitutional norm. Therefore, the problem is not in the market share but in the possibility of abusing this section. Whether it is the same result in the field of competition protection or the infringement of the consumer's interests, we control the activities of a monopoly commercial organization (70, 90 or 100% share). The regulatory body faces the necessity of solving the same problem: that is not to allow the abuse of market power.

Fourth, both in the American and European models of the protection of competition not the monopoly (dominating) position is prohibited but the monopolistic activity (abuses).

Fifth, even in the cases of best wishes and applied mechanisms we can not eliminate monopoly in all product markets. Moreover, there is no need to eliminate it. Consequently, the problem should not be the elimination of monopoly but the limitation of its formation and the introduction of effective competition protection mechanisms.

Sixth, some of the Republic's commercial organizations have an objectively dominant position. The state attitude towards them should be dual. On the one hand, there is a need to keep the behavior of such economic entities in the center of attention of the state regulatory body (not to allow this position to be abused) and to create an opportunity to increase their competitiveness in the external markets on the other hand. A similar approach should also be made to the emerging major commercial organizations whose products will face the problem of becoming competitive in the external market.

An absolutely different approach requires monopolies that operate only on imports. The activities of such monopolies should be under strict supervision of the state regulatory body. One of the effective ways of controlling their activities is to obtain periodic (monthly, quarterly)²⁶ information²⁷ on their price, local cost structure and volume of goods. As the experience of England, the United States, the Federal Republic of Germany and other European Union countries shows, strengthening the demand for corporate reporting will reveal many facts about corruption, tax evasion and the misleading of consumers and shareholders²⁸.

Manifestations of monopolistic activity in several Armenian commodity markets

Armenia became a monopolistic country during the Soviet era. The overwhelming majority of mechanical engineering, large and small chemistry, color metallurgy, textile industry and shoe production, many types of food, cognac and wine products were sold out of Armenia and the state

²⁵ According to the RA Law, Monopoly is 100 percent share in the market (article 6, paragraph 1). According to «On legal acts» the 86th article of the RA the Legal act is interpreted by the lateral meaning of the words and expressions in it.

²⁶ Nowadays the Committee gets the information about the dimensional indicators but it is not sufficient to mark.

²⁷ About its importance see Miqaelyan M., V., The economic competition and the state regulatory issues of monopoly in the Republic of Armenia, Yerevan, 2005, page 65.

²⁸ Ivanov I., D., Modern monopolies and competitions (forms and methods of monopolistic practice). M., 1980, p. 134.

remained within the monopolistic country. However, monopoly activity (with its classic manifestations) did not develop in any commodity market and sales and acquisition of goods were under strict supervision of state bodies.

After political independence, parallel to the formation of a multidimensional economy, the existing "fertile soil" contributed to the development of monopoly activity. At the same time, new commodity companies with monopoly and market power have emerged in different commodity markets of the country whose monopolistic activities are still very popular today. First of all, the level of concentration and monopoly level are high in many commodity markets of the Republic. Despite the fact that in order to ensure free and fair competition in commodity markets and to protect consumers' interest, the State Commission for the Protection of Economic Competition (hereinafter referred to as the Commission)²⁹ has been established since January 2001, but its 17-year activity can not be considered effective because of the high level of monopoly in the economy where monopolistic activities flourish and prosper instead of free competition. Especially ineffective is the last eight to ten years activity.³⁰ Moreover, if in the first period the Commission has ensured the publicity of its activities according to paragraph 2, Article 10 of the RA Law (Commission sessions are open and the decisions are immediately posted on the Commission website) and published the bulletin each year reflecting its activity, then it has stopped the publication of the bulletin since 2009 and the installation of the decision on the website since 2013.

The trends in food production, exports and pricing in the world market and the internal market protection and development issues in the Republic of Armenia as well (based on the specific types of food products) have resulted in the following conclusion:³¹ consumers' total income annual loss is around 290 million dollars because of the prices higher than the average prices. Even assuming that in the case the prices are reduced the consumers will not increase the demand for food products, their annual income loss per capita is \$ 87.7 dollars which is about 2.3 per cent per capita of GDP and 4.2 per cent per capita consumption. At the same time the companies make decisions about other variables besides prices. The product type is a combination of price, quality, intangible value, customer service and other features among which the companies make choices to succeed in the market. In situations where the market limits the company's ability to set flexible prices, the latter can compete with the regulation of non-price variables. One company can increase its advertising costs which will enable the company to enhance its reputation and promote the increase of sales in the market and the other can offer better after-sales service while the other company can improve the offered product package

²⁹ In accordance with the demands of the second and third paragraphs of the 20th Article of the Law of RA by the order of the president of the RA the seven members of the Commission were pointed (including the president and his vice president).

³⁰ Till 2016 the assessment of the Committee is given more in details in Miqaelyan M., V., Miqaelyan G., M., The main issues of economic competition protection of the Republic of Armenia, the News magazine of social sciences, 2017, N 2, p. 229-234, Michael Miqaelyan, Abusive competition and the challenges of its regulation in Armenia, Bulletin of Yerevan State University, Sociology, economics, 2017, N 3 (24), p. 11-18.

³¹ Sargsyan H., Markosyan A., The economic reforms and the perspectives of their growth. – Yerevan, «Zangak» publishing house, 2014, p. 279-353.

(appearance, packaging improvements or due to special offers). Consequently, the price level and behavior do not always reflect the severity of competition and there is a need to address the marketing behavior. This conclusion is particularly important taking into account the economic analysis realized by the SCPEC's and the focus on the price level instead of the negative impacts of anti-competitive policies and government interventions by companies.³²

Consequently, the Commission did not fulfill the function provided for in the aforementioned Article of the RA Law. In most Armenian commodity markets concentration levels have gradually increased, dominating entities have driven their competitors out of the markets and/or increased their shares using the competitors' accounts. It can be verified by examining the Commission's recent annual activity programs and reports.

As it is evidenced in Table 1, both the number of economic entities and the size and composition of their shares in the petrol and diesel fuel markets have changed significantly. During ten years a new economic entity has emerged ("CPS Oil" LTD) which did not exist in the first quarter of 2006 (even did not have a 5% share) and suddenly it became the leader in those markets. In the terms of fair competition this is an impossible phenomenon that the Commission has never referred to.³³

The commission was not at its height either in 2018 in commenting on price changes in these commodity markets as an objective process conditioned by external economic factors in its annual program of activities.³⁴ In our opinion, the Commission has demonstrated either a serious professional shortcoming or negligence in the analysis or an obligation to justify and "ignore" the abuse of economic agents. In both cases we are dealing with the inadequacy of the state body acting on the account of the taxpayers for their failure to perform their functions fully. This is evidenced by the practice of commenting on the inflation rate as a result of the new rates of excise tax and tax on diesel fuel with increased value tax and justifying the actions of economic entities with those changes since January 1, 2010.

³² The same place, p. 333.

³³ See the annual activity reports of 2006 and 2009 of SCPEC of the RA, the annual program of activity of 2018 and the interpretation of the Committee on inflation in these markets.

http://competition.am/uploads/resources/Report_2006_Vo_13_11_04_07.pdf ,

http://competition.am/uploads/resources/Report_2009_vo52.pdf,

http://competition.am/uploads/resources/Annual_Program_2018.pdf,

http://competition.am/index.php?page=news_cases&newsID=1489&lng=1

³⁴We touched upon the not augmented "analysis" of the Commission and its not being proved in our other research (see the previous edition of this periodical).

Table 1

The dynamics of several criteria of «Petrol» and «diesel fuel» commodity markets in 2006-2016

Name of commodity market	2006				2016*			
	The number of firms	The level of concentration %	Progressive firms		The number of firms	The level of concentration %	Progressive firms	
			Name	Department			Name	Department
Petrol	7	82.6	«Flash» LTD, «Civil petrol service» PO, «Mika Armenia Trading»	45.1 37.5 5.3	3	100	«CPS Oil Corporation» LTD, «Flash» LTD, «Max Petrol» CJSC,	60 34 6
Diesel fuel	11	79.8	«Flash» LTD, «Sokol Oil» LTD, «Civil petrol service» PO,	41.0 24.4 14.4	3	100	«CPS Oil Corporation» LTD, «Flash» LTD, «Max Petrol» CJSC,	- - -

*The Committee had addressed the study and analysis of diesel fuel market the last during 2010 annual activity program and 2009 annual activity program reporting according to which by the first 9 months indicators of 2009 7 marketing subjects were acting in the market such as “Flash” LTD, “Petrol group” LTD, “Mika Corporation CSJC with 47.3, 40.8 and 7.0 percent shares respectively.

Let's see how petrol and diesel fuel prices actually correspond to the legislative changes (see Table 2). Last year on December 30 in petrol stations petrol was sold at 410 drams and diesel fuel was sold at 380 drams per liter. Petrol sales price without AVT (hereinafter AVT) and excise tax on 30 December, 2017 was 322.8 drams per liter and on January 15, 2018 was 328.14 drams, the difference is 5.34 AMD. It turns out after the new excise tax rate has been applied, the economic entity has gained an additional 5.3 drams of revenue per 11 of January 15 on January 22 it was 13.68 drams income, on February 15 for 22 drams and the selling price growing rate (without excise tax and AVT) was 6.8% which is significant and should be of concern to the Commission in terms of abuse of dominating position.

Table 2

The calculation of the prices of petrol and diesel fuel and the changes in their composition under the legal changes

	30.12.2017	15.01.2018	22.01.2018	15.02.2018	15.02.2018 with % compared with 30.12.2017
Petrol*					
1, price, drams	410	430	440	450	109,76
2) Excise tax, drams (30.12.2017 for one ton 25000, since 2018 January 1 40000)	18.87	30.19	30.19	30.19	160
3) AVT, drams	68.33	71.67	73.33	75.00	109.8
4) The price of petrol sale without AVT and excise tax	322.8	328.14	336.48	344.81	106.8
5) difference compared with 30.12.2017, drams	-	5.34	13.68	22.01	-
Diesel fuel**					
1, price, drams	380	440	450	460	121.1
2) Excise tax, drams (30.12.2017 10% not less than for one ton 35000, since 2018 January 1 13000)	29.17	10.83	10.83	10.83	37.1
3) AVT, drams	-	73.33	75	76.67	-
4) The sale price of diesel without AVT and excise tax / taking into account the influence of AVT ***	350.83 / 321.6	355.84 / -	364.17 / -	372.5 / -	106.2 / 115.8
5) Difference compared with 30.12.2017, drams	- / -	5.01 / 34,24	13.14 / 42.57	21.67 / 50.9	- / -

*The coefficient of petrol average density is 1t=1325 l,

** The coefficient of diesel fuel average density is 1t=1200 l,

*** If the diesel fuel would have taxed with AVT and accepting that the salary, the fatigue of main resources and revenue would have totally formed 50 %, then the sale price would have become 321.6 drams without AVT and excise tax.

Meanwhile, according to the optimistic assessment of the Commission on January 12 in 2018, there can be no mention of abuses in the fuel market.³⁵ Even after the economic entities twice raised the petrol price by 10 drams the regulator did not consider it necessary to start proceedings for the disclosure of abuses.

The situation is slightly different in the diesel fuel market. Last year diesel fuel was not taxed by AVT and the excise tax amounted to 10% of the exemption price but not less than 35,000 drams per 1 ton. Since January 1, 2009 the excise tax rate for diesel fuel amounted to 13,000 drams per ton and it was started taxable by AVT. The excise tax on diesel fuel in December totaled 29.17 drams, the selling price (excluding excise tax) was 350.83 drams and in January 2018 it was 10.83 drams and from 355.84 drams it became 372.5 drams respectively.

To ensure comparability in the same conditions, let us assume that last December diesel fuel is taxed by AVT (taking into account the AVT impact) then the selling price (without excise tax and AVT) will be 321.6 drams. In this case, as compared to last December, the selling price of diesel fuel (excluding excise tax and AVT) surpassed by 32.24, 42.57 and 50.9 drams respectively. In other words, economic entities and those with oligarchic market economies have gained extra profits from the possibility of changing tax legislation.

The examples are not single. Numerous examples can be brought from other commodity markets some of which we have covered in our previous publications³⁶ and others will be discussed in further studies. They show not only the ineffectiveness of the activities of the Commission but also its criminal indifference and professional ignorance and inability.

The solution to the problem can be achieved through the transformation of institutional structures and the application of new regulatory mechanisms.

Institutional Measures

a) a radical change in the formation mechanism of the regulatory body. The goal is to ensure the independence of the regulator and its individual members. More than 18 years' experience shows that both the regulator and its individual members are in the process of making decisions in an effort to overestimate the "superior" reprimand. Separate members in their turn try to "win" the favor of the Regulator Chairman (Committee Chairman) with the hope of continuing to work in a new timeframe after the expiry of the timeframe established by law and also hoping to use foreign business trips and other services as well. In the case of the aforementioned favor, members with such posture (unfortunately they are majority, as a rule) are in a "privileged" condition over the entire period of time appointed. It is not accidental that, as a rule, not the professionals and principal members continue to work the second and the longer period of time but the "puppets" and "commissioners" of the Chairman of the Commission who are guided not by the objective necessity of solving the problem while voting for decision but by the temptation to receive the satisfaction of

³⁵ See the respond of the Competitive body of the RA to ARU. The can be a word about the abuses in fuel market http://competition.am/index.php?page=news_cases&newsID=1489&lng=1

³⁶ See Miqaelyan M., V., Miqaelyan G., M., The main issues of economic protection of the RA, the Bulletin of social sciences, 2017, N 2, p. 229-234, Michael Miqaelyan, Abusive competition and the challenges of its regulation in Armenia, Bulletin of Yerevan State University, Sociology, Economy, 2017, N 3 (24), p. 11-18, M., V. Miqaelyan, A., Kh. Markosyan, E. Matevosyan, About the issues of Economic competition (the previous edition of this periodical) and etc.

the Chairman of the Commission. This is a circumstance that contradicts the principle of coordinating the regulatory body [1].

Consequently, it is desirable to minimize the role of the subjective factor in appointing members of the regulatory body. The members of the Regulatory Body should be appointed on a rotational basis with independent and recruited bank personnel who meets certain demands.

b) reorganize the two state regulatory bodies, the RA State Commission for the Protection of Economic Competition and the Public Services Regulatory Commission in the form of merging with the State Commission for the Protection of Economic Competition and the Public Services Regulatory Commission [2]. The necessity of this is conditioned on one hand by the collision between the interdepartmental interests (in some cases) and due to the small area of the country and the need for the optimization of the public administration system, on the other hand ³⁷.

Application of new regulatory mechanisms

The 18-year experience of the activities of the Commission has revealed some obstacles and omissions of existing mechanisms, the elimination and the elaboration of new mechanisms have become urgent.

Let's introduce some of them and suggest solutions.

a) Ineffective mechanism for the implementation of the decisions made by the Commission which often turns out to be non-existent. According to Article 23, paragraph 1, point e of the Law of the Republic of Armenia, the obligation of the Commission to fulfill the decisions of the Commission is under the president's responsibility. At the end of the service (usually by the head of the Legal Service) the courts are often "dumped" into seemingly simple cases at first sight and in some cases they are not subject to discussion in the Commission as there is no clear mechanism for controlling those decisions.

Since the Commission is a collegiate body the control should also be exercised collectively.

b) Election of the staff. The quality and effectiveness of the work of the Commission largely depends on the quality and impartiality of the staff and the Commission is responsible as the collegial body. It is appropriate that the issue of appointing leading cadres is resolved at the collegial level.

c) As we have shown above, the activities of the Commission over the last nine years have gradually become non-transparent even though the transparent and public function is enshrined in the RA Law. One of the reasons for this is the absence of a transparent and the mechanism for controlling its public activity .

Conclusion

Thus, we conclude from the above mentioned that there are numerous institutional, managerial and organizational deficiencies and shortcomings in the studied system the quick and systematic reforms of which will open the way for noticeable improvement of the level of economic competition in the republic, the creation of favorable environment for entrepreneurial activity and investment.

³⁷ See M. Miqaelyan, the market and the necessity of its formation, the Republic of Armenia, daily paper, 03.12.1996

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ՄԵՆԱՏԻՐՈՒԹՅՈՒՆԸ ԵՎ ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅՈՒՆՈՒՄ ԴՐԱ ԿԱՐԳԱՎՈՐՄԱՆ ՀԻՄՆԱԽՆԴԻՐՆԵՐ

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²Շուշիի տեխնոլոգիական համալսարան

³Մ.Վ. Լոմոնոսովի անվան Մոսկվայի պետական համալսարան, Երևանյան մասնաճյուղ

Հասարակական ընկալման մեջ «մենատեր» եզրույթը զարգացման որոշակի փուլեր է անցել: Եթե 20-րդ դարի սկզբին այդ եզրույթն օգտագործվել է նեղ իմաստով՝ որպես մեկ վաճառողի և բազմաթիվ գնորդների (կամ մեկ գնորդի և բազմաթիվ վաճառողների) շուկայական փոխհարաբերություն, ապա հետագայում՝ մրցակցության պաշտպանության օրենսդրությունների ընդունմանը զորգահեռ, թե՛ այդ հարաբերությունների պետական կարգավորման, և թե՛ տնտեսագիտական ու իրավագիտական գրականության մեջ տիրապետող դարձավ դրա լայն իմաստով կիրառությունը, որի դեպքում կարգավորման հիմքում ընկած է ոչ թե շուկայում միակ սուբյեկտ լինելու հանգամանքը, այլ՝ տնտեսվարողի շուկայական իշխանության այն աստիճանը, որը նրան հնարավորություն կնձեռի չարաշահել այդ իշխանությունը:

Ներկայումս մրցակցության պաշտպանության համաշխարհային փորձը վկայում է, որ մրցակցության և (կամ) սպառողների շահերի պաշտպանության առումով կարևոր չէ, թե որ տնտեսվարողն է չարաշահումներ կատարել, մենատերը՝ թե՛ շուկայական մեծ իշխանությամբ տնտեսվարողը (այսուհետև՝ Մ և ՇԻՏ): Երկու դեպքում էլ տնտեսական հետևանքները նույնն են՝ շուկայի մուտքի խոչընդոտներ են հարուցվում և սպառողների շահերն են ոտնահարվում: Այդ է պատճառը, որ դրանց կարգավորումներն էլ տարբերակված չեն:

Նման փորձ կա նաև Հայաստանում: Չնայած մրցակցության պաշտպանության մասին օրենքում տարբերակված են Մ և ՇԻՏ ունեցող տնտեսվարողները, սակայն երկուսի նկատմամբ էլ կարգավորման նույն լծակներն ու մեխանիզմներն են կիրառվում:

Ուսումնասիրությունները վկայում են, որ կարգավորողը միշտ չէ, որ համարժեք գնահատական է տալիս և վերաբերմունք է ցուցաբերում տնտեսվարողների նկատմամբ: Մասնավորապես, 2018թ.-ի տարեսկզբին հարկային օրենսգրքի որոշ դրույթների ուժի մեջ

մտնելու հետ կապված գնաճի մեկնաբանությունը Մ և ՇԻՏ-ի գործողություններով պայմանավորված մասնագիտական առումով վիճահարույց է:

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МОНОПОЛЬНАЯ ДЕЯТЕЛЬНОСТЬ И ПРОБЛЕМЫ ЕЕ РЕГУЛИРОВАНИЯ В РЕСПУБЛИКЕ АРМЕНИЯ

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В общественном восприятии термин «монополист» прошел через определенные этапы развития. Если в конце 19-го и начале 20-го столетий этот термин использовался в узком смысле, как рыночные отношения одного поставщика и нескольких покупателей (или одного покупателя и нескольких поставщиков), то в дальнейшем в экономической и юридической литературе и в практике государственного регулирования рынка, его стали применять в самом широком смысле. Притом, основой урегулирования является не тот факт, что монополист является единственным субъектом на рынке, а скорее степень рыночной власти, которая позволяет ему злоупотреблять эту силу.

Глобальный опыт защиты конкуренции в настоящее время доказывает, что с точки зрения конкуренции и защиты интересов потребителей, не имеет значения, является ли предприятие монополистом или доминирующим на рынке субъектом предпринимательства. В обоих случаях экономические последствия одинаковы: создаются рыночные барьеры и нарушаются интересы потребителей. Вот почему механизмы их регулирования не различаются.

Существует также такой опыт в сфере защиты экономических отношений Республики Армения. Хотя законодательство закрепило понятия "монополия" и "доминирующая на рынке экономическая организация", в отношении обоих применяются те же рычаги и механизмы воздействия.

Исследования показывают, что в последние годы регулятор не всегда действует эффективно и не дает адекватную оценку монопольной деятельности субъектов. С целью повышения эффективности работы регулятора необходимо повисить степень ее независимости и предусмотреть некоторые механизмы контроля за его действиями.

Ключевые слова: монополия, монополист, рынок, монопольная деятельность, доминирующий на рынке, защита конкуренции.

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