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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
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ISSUES – Contribution from Ukraine****- Session IV -**

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More documentation related to this discussion can be found at: oe.cd/mktcomp.

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Using market studies to tackle emerging competition issues

- Contribution from Ukraine -

1. Introduction

1. The purpose of the market study is to determine the state of the competitive environment in the market by the Antimonopoly Committee of Ukraine (hereinafter – the AMCU) and its regional offices, define possible regulatory barriers, structural and behavioural signs of competition law violations and to make proposals for the implementation of enforcement or other measures aimed at developing competition and prevention of the infringements.

2. The contribution reveals the main results of the recent market studies made by the AMCU and their use to improve competition and identify signs of violation of the legislation on the protection of economic competition.

2. Development of competition based on a market study

2.1. Case № 1. The banking services market study

3. The AMCU conducted a study of the banking services market, mainly in the context of a violation of the principle of competitive neutrality¹. The essential object of the study is the validity of the existence of the exclusive powers of public sector banks to service individual market segments.

4. To begin with, we note that Ukraine has made a commitment to reduce the presence of the state in the areas of banking services. An analysis of European experience shows that the government can interfere in the development of banking services in cases where the provision of such a service on a free market is ineffective, or when such intervention contributes to the development and achievement of public interest goals.

5. More than 70 banks operate on the Ukrainian banking market in 2020. So the overall market is potentially competitive; however, in the market study, there were defined several narrow markets of specific banking services. Despite this, due to administrative barriers, only public sector banks are allowed to provide services in certain segments. Among the key consumers subject to restrictions are military pensioners, displaced persons, state institutions, economic entities using special accounts (for example, participants in the electricity market). In total, we are talking about more than 15 segments.

¹ Report on the results of the banking services market study
URL: <https://data.gov.ua/dataset/439c2cd8-2e1a-4617-93a9-f23d0754a98d/resource/74341851-dc23-4eb2-81a9-3d6f0970dfbc/download/zvit-bankivski-poslugi.zip>

6. In recent years, legislation has established new restrictions (i.e. financial compensation for the "baby package", servicing deposit accounts for crediting funds related to the enforcement of decisions).

7. This approach to the regulation of the banking services market hinders the development of effective competition. It leads to the fact that private banks' ability to provide services on equal and competitive terms is restricted. In turn, consumers are not able to receive a service based on the "price/quality" principle and have limited choice. This is confirmed by a number of complaints submitted by such customers to the AMCU. The Independent Association of Banks of Ukraine notes that there are no grounds for granting exclusive rights to public sector banks in all cases.

8. The AMCU concluded that there is a need to create conditions for the development of competition between banks of all forms of ownership at the expense of their achievements. The barriers to entry into closed market segments should be a subject for critical analysis from the point of view of the practicality of their existence. Under certain conditions, they can be revised.

9. To assess the competitive potential of banking services markets, AMCU studied the level of interest of banks, in which there is no state share, in servicing still closed segments of the banking services market. After the polls, it became clear that some segments are very attractive for private banks, while there are those areas in which there is no high level of interest. At the same time, the thesis that the granting of exclusive rights to public sector banks is due to unique technologies for providing services, and that this is a widespread world practice, was not confirmed during the study. However, in some segments, it is obvious that not only competition policy, but also fiscal, social and even defence policies have to be considered in opening them for private banks. Consequently, to prevent violation of the principle of competitive neutrality in the regulation of the banking services market, the AMCU sent proposals to the Cabinet of Ministers of Ukraine (hereinafter – CMU) regarding the provision of instructions to the central authorities to reduce and/or eliminate barriers to the development of competition in certain segments of the banking services market. In particular, the following measures are proposed:

- checking the feasibility and other reasons for maintaining administrative barriers for private banks;
- submission to the CMU of proposals on amendments to regulatory legal acts in terms of abolishing the exclusive rights of public sector banks to service sectors for which significant risks are predicted;
- submission to the CMU of proposals on the introduction of competitive mechanisms for the selection of banks that will serve those segments in relation to which there are significant risks.

10. The results of the joint work of the Cabinet of Ministers and the Antimonopoly Committee of Ukraine should be an improvement in the quality of banking services by intensifying competition in previously closed market segments.

2.2. Case № 2. Market study of chicken meat and recommendations as a preventive measure

11. However, under some circumstances, the tool of market studies can be used not only to punish but also to prevent violations of competition law.

12. After conducting a study of the market of chicken meat in 2018, the AMCU provided Recommendations dated 09.04.2020 to the biggest local producer - the "MYRONIVSKY HLIBOPRODUCT" group (hereinafter – the Group),

13. According to the information obtained from the market study, the Group has structural signs of a monopoly (dominant) position in the national market for the primary sale of chicken meat.

14. At the same time, in the **context of the coronavirus pandemic**, food supply problems are common to all countries, especially for those countries that are dependent on imports.

15. These circumstances can stimulate national producers of export-oriented industries to increase the volume of sales of goods to foreign markets in order to increase their profit due to higher prices for the chicken meat abroad than on a domestic market.

16. The consequences of such actions may be a shortage of certain goods in the domestic market of Ukraine due to a limited capacity of the plants, an increase in prices for end consumers and a risk in ensuring food security of the state.

17. So, due to the restrictive measures related to the spread of coronavirus disease on the territory of Ukraine, the AMCU recommended the Group to prevent violations of legislation on the protection of economic competition, in particular, do not take actions that may lead to limitation of production volumes and (or) the sale of chicken meat on the domestic market of Ukraine in the absence of alternative sources of sale or purchase of goods.

3. Conclusions

18. As the examples show, the market research is an essential mechanism for countering the spread of violations of legislation on the protection of economic competition-prevention of infringements, developing competition, expanding understanding of the specifics of the market and combating information asymmetry in the market.

19. As a result of market studies, the AMCU may use the following tools and approaches:

- to issue recommendations to stop and/or prevent the violations of the competition legislation.
- to propose government to introduce relevant competitive mechanisms for development of competition in different markets.
- to open cases/start investigation against violators, identified by the market.

20. The concluding remark is that being a quiet time and efforts consuming instrument, and the market study is an excellent tool to provide comprehensive information of the market functioning, which may be used as for competition enforcement, as for competition and even industrial policy development purposes.

