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**THE PROMOTION OF COMPETITIVE NEUTRALITY BY COMPETITION AUTHORITIES -  
Contribution from Ukraine**

**- Session III -**

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More documentation related to this discussion can be found at: [oe.cd/pcnca](https://oe.cd/pcnca).

Please contact Mr. James Mancini [E-mail: [James.Mancini@oecd.org](mailto:James.Mancini@oecd.org)], if you have any questions regarding this document.

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## *The Promotion of Competitive Neutrality by Competition Authorities*

### **– Contribution from Ukraine –**

1. In 2019-2020, the Antimonopoly Committee of Ukraine (hereinafter – the Committee) conducted a study of the banking services market aimed to detect the violation of the principle of competitive neutrality in the form of adoption of legislative and regulatory acts, which give public sector banks exclusive rights to provide banking services in certain segments of the banking market.
2. The term "public sector banks" refers to banks in which the state's share is at least 75% of the authorized capital.
3. More than 70 banks are operating on the Ukrainian banking services market, therefore, the market is potentially competitive. Four of these banks are public sector banks, namely:
  - Joint Stock Company "State Savings Bank of Ukraine" (hereinafter - JSC "Oschadbank") (the state owns 100% of the authorized capital);
  - Joint Stock Company Commercial Bank "PryvatBank" (hereinafter - JSC CB "PrivatBank") (the state owns 100% of the authorized capital);
  - Joint Stock Company "State Export-Import Bank of Ukraine" (the state owns 100% of the authorized capital);
  - Public Joint Stock Company Joint Stock Bank «Ukrgasbank» (the state owns more than 75% of the authorized capital).
4. The Committee found that only public sector banks are allowed to provide banking services in certain market segments, for others there are entry barriers. In addition, it has been established that the vesting of exclusive rights to service the corresponding segment of the banking services market may also apply to a separate bank among public sector banks.
5. Among the key consumers subject to restrictions are military pensioners, displaced persons, recipients of subsidies, budgetary institutions and entities receiving budget payments, business entities that use accounts with a special regime of use<sup>1</sup> (for example, participants in the electricity market), etc. In general, we are talking about more than 15 segments.
6. Some restrictions were established 10-20 years ago, and therefore are perceived as "established practice". So, since 1992, a military pensioner can receive a pension only at JSC "Oschadbank", regardless of whether it is convenient for him/her to be served by this bank or not. Libraries and museums of Ukraine are obliged to open accounts exclusively in public sector banks since 1995, cultural institutions - since 2010, scientific institutions - since 2015.
7. In recent years, by legislation were also established new restrictions (for housing subsidies payments for housing and communal services, monetary compensations payments for housing to certain categories of persons, monetary compensations for the

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<sup>1</sup> A special mode of use for the implementation of the relevant settlements consists of a special procedure for using the funds placed on them.

"Baby package"<sup>2</sup>, servicing deposit accounts for crediting funds related to enforcement of decisions).

8. The admission of only public sector banks to the provision of certain banking services resulted in:

- banks in which there is no state share are limited in their ability to provide services in the respective segments of the banking services market;
- consumers cannot choose the provider of the banking services they need on a “price / quality” basis.

9. To assess the competitive potential, the Committee 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 survey, it became clear that some segments are very attractive for private banks, but along with this there are those segments of the banking services market for which there is no high level of interest.

10. At the same time, the theses that the granting of exclusive rights to public sector banks is due to unique technologies for providing services, and this is a widespread global practice, were not confirmed during the study.

11. According to the Committee, given the current level of concentration in certain segments of the banking services market, there is a need to create conditions for the development of competition between banks of all forms of ownership by gaining advantages through their own achievements in the market. The National Bank of Ukraine, the regulator of the banking services market, also declares the need for competitive conditions for all banks.

12. Associations of participants of the banking services market also note that there are no grounds for granting public sector banks exclusive rights to service certain segments of the banking services market. At the same time, both government bodies and individual participants in the banking services market adhere to opposite opinions.

13. The results of the study indicate the need to introduce a competitive basis for the provision of banking services.

14. Therefore, the existing barriers to access the closed segments of the banking services market should be:

- analyzed from the point of view of the feasibility of their existence and the possibilities of reduction;
- revised, taking into account the presence of a significant number of potential participants, their stability, systemic importance, etc.

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<sup>2</sup> By the Resolution of the Cabinet of Ministers of Ukraine dated July 29, 2020 No. 744 "Some issues of the implementation of the pilot project on the monetization of one-time in-kind aid "Baby package", the mechanism for the implementation of the pilot project" monetization of one-time in-kind aid "Baby's package" 2020 - 2021 provides for the transfer of monetary compensation for the cost of one-time in-kind aid "Baby package" on the current account with a special mode of use by parents who have a child, and in their absence - foster carers, foster parents, parent-educators, guardians of a newborn child, opened in JSC CB "PryvatBank".

15. Considering the abovementioned, in order to prevent violation of the principle of competitive neutrality in the regulation of the banking services market, the Committee approved the report on the results of the study and sent proposals to the Cabinet of Ministers of Ukraine regarding instructing the central authorities to reduce and / or eliminate barriers of competition development in certain segments of the banking services market by, in particular, conducting the following activities:

- checking the feasibility and other grounds for maintaining barriers;
- submission to the Government of a proposal on amendments to legislative and regulatory acts in terms of abolishing the exclusive rights of public sector banks to service sectors for which no significant risks are forecasted;
- submission to the Government of proposals on the introduction of competitive mechanisms for the selection of banks that will serve those segments concerning which there are significant risks.