Trends and Prospects of Development in the Modern System of International Competition Regulation

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Abstract. International regulation of competition seems necessary in the context of globalization and internationalization of economic relations and, as a result, the emergence of transnational corporations (TNCs) that go to the supranational level. Due to the imperfection of national legislation in countries that have only recently embarked on the path of a market economic system, the creation of an effective international competition regulation system should contribute to the implementation of the principles and norms of competitive relations that are mandatory or recommendatory. The purpose of the study is to identify the main problems in the modern international system of competition regulation, as well as to identify problems and ways to improve the system of regulation of competitive relations in Russia.

1 Introduction

The theory of competition has been developing for several centuries. The very concept of "competition" appeared in ancient times (the origin of the concept of "competition" from Latin. concurentia - competition, collision), however, directly theoretical provisions of competition appeared around the middle of the 18th century. They found expression in the works of many economists, such as A. Smith, D. Ricardo, A. Marshall, F. von Hayek, E. Chamberlin, J. Schumpeter, J. Robinson, etc.

It should be noted that there is no single definition of the concept of competition. Competition is viewed from different angles, it is investigated depending on the typology of markets (perfect, imperfect), methods (price, non-price) and approaches (structural, behavioral, functional) [1]. However, despite this, researchers agree on the significant role of competition, which manifests itself in increasing the efficiency of the use of factors of production, as well as the regulation of socio-economic phenomena.

2 Manuscript Preparation

In this article, the authors used the following methods:

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- method of induction (various approaches to the definition of the conceptual apparatus of "competition" were considered);
- method of analysis (in the course of the analysis it was revealed about a relatively poorly developed system of competition regulation in Russia).

3 Research Results and Their Discussion

Competition is a factor in improving products, creating better conditions for consumers through innovation. Thus, competition is the struggle of market participants to achieve the most favorable conditions, which, on the one hand, is a factor in improving the conditions for purchasing goods, providing services and other benefits for consumers, and on the other hand, is a kind of negative factor for outsider firms that are not able to compete with larger market players, use the best resources, introduce new products, etc. And as Adam Smith put it in his work "Research on the Nature and Causes of the Wealth of Nations" (1776), this is the invisible hand of the market, the features of which explain the dualistic nature of competition.

Regarding the advantages and disadvantages of competition, it should be noted that there are more advantages of competition than disadvantages, since competition, which as a link of the market economy is characterized by rivalry of economic entities, as well as inclusiveness (prevalence at macro, meso and micro levels), is an incentive for innovative business development and an indicator of economic growth [2]. The concept of competition can be compared with natural selection, when the strongest companies are able to maintain their positions in the market, and the weak are subject to bankruptcy [3]. This competition can lead to monopolization of the market, which leads to negative consequences for consumers and other market participants at the micro level, and for the economy as a whole at the macro level. So, in order to prevent the creation of monopolistic structures, a system of effective regulation of competition is necessary.

Healthy competition is a necessary element of a market economy. Some countries use tougher measures, and some use milder measures in regulating competition. On the basis of this, appropriate regulatory legal acts aimed at supporting or restricting competition are adopted.

If we consider the opinions of various scientists regarding the need to regulate competition, some of them say that competition is a self–regulating system (A. Marshall, M. Friedman), others note the need for state intervention (J. Galbraith, K. Popper) and others that regulation is necessary not for competition, but in particular for unfair competition.

The creation of an ideal system of competition regulation is impossible due to various factors, including unaccounted for ones. However, based on the analysis of the problems of the existing competition regulation system in the country or the competition regulation system of other countries with richer experience and developed legislation, it is possible to achieve its improvement. Thus, it is possible to identify a number of problems in the existing system of regulation of competitive relations.

V.O. Kananykhin, in his work on the example of competition regulation in China, speaks of the need to expand the conceptual apparatus, change the timing of investigations in antimonopoly cases, as well as concentrate the functions of antimonopoly authorities in the hands of a single body to increase responsibility for the decisions taken by the authorities [4]. The author will allow himself to disagree with the last provision in view of the possibility of another, already widespread, problem of corruption of antimonopoly authorities.

N.V. Tskhadadze highlights the problem of incommensurability of violations and sanctions for these violations. Thus, she notes that Russia has the lowest fine among

European countries for cartel agreements, which does not even depend on the duration of the violation. As a result, it is not financially difficult for a monopoly structure that has been receiving superprofits for several years to pay even a high fine. It is necessary that the amount of the fine be comparable to the amount of excess profits received by monopolists [5].

The problem of regulating dysfunctional competition. Dysfunctional competition (usually associated with infringement of intellectual property rights) is common in emerging economies, which makes it difficult for entrepreneurs to profit from their innovation activities. Firms operating in emerging economies should choose appropriate strategies to address the problems of inefficient competition and achieve competitive advantage. The usefulness of competitive strategies (cost leadership and differentiation) and market assets (customer orientation, competitor orientation and creativity in marketing) was evaluated in terms of their ability to help an innovative firm cope with dysfunctional competition and increase the return on innovation. Data from a survey of managers of 282 Chinese high-tech companies show that the focus on cost leadership, customer orientation and creative marketing predict higher results of an innovative product in an environment with a high level of dysfunctional competition, while differentiation and focus on competitors were less effective.

K.R. Nurgalieva highlights the problem of inaccuracy of data for measuring market concentration. Thus, she notes that when using concentration measurement techniques, we encounter biased data, as a result of which it is not possible to guarantee an objective assessment result [6].

In addition, in the list of problems of competition development and antimonopoly regulation, it is necessary to note the high level of cartelization, the lack of a sufficient number of small and medium-sized businesses, the state monopolization of the economy, the centralization of powers in the hands of one body and, consequently, the corruption of regulatory bodies of competitive relations.

Competition law and policy have undergone significant changes both domestically and internationally over the past two decades. At the international level, the evolution of competition regulation has been driven by two factors. First, business and commerce continued to become increasingly internationalized. This means that national economies are now highly interdependent. Secondly, the number of countries that have adopted laws in the field of competition regulation has increased significantly. In the late 1980s. only 20 countries had a competition regulation system, and today their number has increased to more than 100. Some very important economies — for example, India and China — have only recently introduced legal regimes in the field of competition regulation [7].

Any State significantly and directly affected by private, economic behavior has a legitimate interest in regulating such behavior, because it has a legitimate interest in protecting the economic well-being of its citizens. This inevitably involves behavior that transcends territorial boundaries.

Thus, international competition policy has come a long way over the past two decades. The international existing mitigation mechanisms have worked tolerably well. The authorities interacted with each other and with other relevant State and non-State actors to create a scheme for a global competition system. Thus, it is necessary to distinguish three levels of this work:

1) development of principles and norms for a deeper understanding of competition and the creation of international associations;

2) providing technical assistance to enable States to build internal systems;

3) development of conditions for the expansion of international cooperation and coordination.

The first type of regulation can be attributed to the EU, since the model adopted within the framework of this association is characterized by the creation of special principles and norms regulating competition and antitrust activities. The second type of regulation is the UN model, since the UN norms on the need to adopt legislation regulating restrictive business practices and the implementation of international cooperation in countering such practices are advisory in nature.

Among the established national models, there are American (USA, Canada) and Western European (France, Germany) models of competition regulation. The researchers suggest that antitrust regulation was carried out for the first time in the USA and Canada, the economic prerequisites of antitrust regulation were born here, which gave rise to the development of competition law and legislation in other countries. Along with the American model, a Western European model appears, which is aimed at combating those monopolies that restrict competition in certain market sectors, that is, there is a restriction, control of monopolies, but not their outright prohibition. The authors believe that the positive experience of using indicators such as the Lerner index, the concentration of market power index (CR) and the Herfindahl-Hirschman index as a regulation of antitrust risks and merger issues within these models will favorably affect the model of competition law in Russia [8].

The considered models have a regulatory framework, for non-compliance with the norms within which appropriate measures are provided. I must say that this ensures their compliance to a more complete extent. Thus, the question arises how norms are ensured within the framework of "soft" regulation, especially within the framework of international "soft" regulation. A number of authors note the disadvantages of "soft" competition regulation due to the fact that countries have their own approaches to competition regulation and due to the informal nature of measures, the violation of which will not entail the application of appropriate sanctions. However, some scientists note that these shortcomings simply need to be improved [8], others that, for example, "WTO rules can usefully contribute to the expansion of the content of the obligation of member states to prohibit cross-border cartels" [10], that is, rules of a recommendatory nature are still a factor in improving the international system as a whole competition regulation due to the fact that they are a kind of model for countries with a lack of approaches to competition regulation and a regulator for organizations and countries in general with a high level of legal awareness.

In order to improve the existing systems of competition regulation both within individual States and in general to create a more perfect international system of competition regulation, it is necessary to identify factors that positively affect such systems.

Within the framework of national legislation, effective regulation of competitive relations is achieved through the coordinated work of antimonopoly authorities, a transparent and accurate regulatory framework, as well as a high level of legal awareness of economic entities.

In addition, as it was already noted, the suppression of violations of the rights of small and medium-sized businesses, as well as the prevention of mergers and acquisitions, are fundamental in the activities of competition regulation.

Earlier, the problems of regulating competition in general, not only within the framework of national legislation, were noted. These problems are largely identified with the problems of domestic regulation of competitive relations.

A. K. Mashkovtseva notes that with an increase in the level of economic development, it becomes more necessary to ensure fair competition. Thus, state regulation should ensure freedom and protection of competition through legislation and various antimonopoly procedures [11].

It should be noted that the improvement of competition regulation is achieved not only by improving the regulatory framework. Although the existence of an appropriate regulatory framework is of paramount importance, since the imperfection of legislation, which manifests itself mainly in the inaccuracy of wording, the absence of certain methods and sanctions for its violation leads to an increase in corruption and disregard by market participants of provisions, including those enshrined in international legal documents aimed at ensuring free competition.

In order to improve the regulation of competition in the country, it is necessary to create a system of penalties that assumes the commensurability of the damage and the offense committed, since the current system of fines is extremely inefficient and insignificant for enterprises that receive monopolistically high profits [6].

The competitive environment, in turn, is achieved by the development of the institute of small and medium-sized businesses, which is a problem for Russia, since in Russia small and medium-sized enterprises account for only 21% of Russia's GDP. For comparison, in European countries this figure is 50-70% [11].

Thus, the regulation of competitive relations in Russia needs serious revision, primarily due to the lack of an optimal competitive environment, which is directly related to the underdevelopment of the institute of small and medium-sized enterprises, a large number of violations and ineffective measures to eliminate them.

4 Conclusions

Based on the study in the field of competition regulation in russia and abroad, the following conclusions can be drawn:

1. When considering the conceptual apparatus of competition, it was revealed that the concept of "competition" does not have a single definition, there are different approaches to its definition (structural, functional, behavioral), however, all scientists and researchers agree on the significant role of competition in a market economic system, since it is a stimulus for innovative business development and an indicator of economic growth.

2. Regulation of competition is necessary due to the desire of market participants to occupy a monopoly position in the market. The two largest and most influential systems for regulating competition are the US antitrust law and the competition law of the European Union.

3. The protection of international competition is governed by international competition agreements. So, there are various organizations for the international regulation of competition. Due to the mandatory or formal nature of the implementation of the norms and principles of competitive relations, they imply two types of regulation: international legal regulation (EU) and international regulatory regulation (WTO).

4. Due to the recent entry into the sphere of market economic relations, Russia has a weak system of competition regulation, which is manifested mainly in the imperfection of the regulatory framework, the ineffectiveness of the antimonopoly authorities and the weak competitive environment.

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