

# STATE POLICY OF ESTABLISHING COMPETITIVE ENTERPRISE IN DOMESTIC TRADE OF UKRAINE

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**Abstract:**The article captures the essence of state policy on establishing enterprise in the field of domestic policy as a component of general social and economic policy of the state. The constituents of the state legal mechanism of realization of policy in the field of domestic trade are grounded. Directions of state policy are detected in home domestic trade: principles of creation and functioning of enterprises in trade sphere; conditions for the sale of goods (foodstuff, nonfood), including, terms of realization of the specialized trade; measures for consumer protection; development of the competitive environment in the field of domestic trade.

**Key words:** state policy, domestic trade, trade objects, retail trade, wholesale trade.

**Topicality of the problem.** Domestic trade is a kind of an indicator that reacts to changes of the social and economic situation in a country, forms a substantial share of the gross domestic product of a country, provides for realization of consumer cost of total product, sets conditions for realization of laws of cost, demand and supply. For effective functioning of domestic trade the determining factor is an effective state policy in this field.

**The analysis of recent studies.** In most monographs the problems related to domestic trade regulation in Ukraine are considered both on national and regional levels (V.Apopiy [1], O. Shubina [2]). Some authors in their scientific articles explain the peculiarities of the government control of trade activity in Ukraine and abroad (I. Vysochyn) and estimate the efficiency of state regulatory policy in the field of Ukraine's domestic trade (A. Hlushko). However, complex studies of state policy (government control is its constituent) on establishing competitive trade enterprise are wanting.

**The aim of the research.** In this connection the aim of the article is to capture the essence of state policy and describe its basic directions in relation to the development of competitive enterprise in the field of home domestic trade.

**Presentation of key research findings.** In our opinion, by state policy in the field of domestic trade is meant a totality of measures of state influence on the behavior of subjects of trade activity with the aim of securing their effective development and proper level and terms of trade service. The policy determines the activity of the state and its bodies of power. The responsibility of policy implementation in the field of domestic trade is laid on central and local government and local self-government bodies.

The state legal mechanism of policy realization in the field of domestic trade is formed by the unity of: state bodies of power (central and local); plenary powers and relations of the indicated bodies inter se and with trade business entities; legal norms and principles that create legislation on realization of domestic trade in a country.

Problems in realization of public policy in the field of domestic trade are predefined, on the one hand, by imperfection (or by absence of corresponding norms) of the legislative control, and on the other hand - by problems, that are common for the whole Ukrainian economy, in particular corruption, bureaucracy. For a long time

already attempts have been made to effectively apply mechanisms of deregulation to home enterprise. In particular, deregulation of trade enterprise in Ukraine is being performed within the framework of reforms implementation in the field of small and midsize businesses control on the whole.

The author's analysis of state policy on establishing competitive enterprise in the field of domestic trade allows to distinguish its certain directions and to ground their peculiarities:

1. principles of creation and functioning of enterprises in trade sphere;
2. conditions for the sale of goods (foodstuff, nonfood), including, terms of realization of the specialized trade;
3. measures for consumer protection;
4. development of the competitive environment in the field of domestic trade.

Each direction of state policy has goals for the achievement of which a different set of tools is used. Currently the state has at its disposal a powerful set of methods, instruments and means of influence on the process of structural changes in the field of domestic trade that comes down to methods and instruments of direct and indirect action.

In compliance with legal norms of Ukraine the subjects of trade enterprise have a right to do business only after state registration that proclaims them subjects of entrepreneurial activities and on condition of obtaining the license (in cases when legislation requires its presence). State registration of business entities in the field of domestic trade is performed in accordance with requirements declared in the law of Ukraine "On state registration of legal entities and physical persons-businessmen" from May, 15, 2003 № 755, - IV [5].

In Ukraine requirements to the system of licensing are determined by a range of legislative acts. The law of Ukraine "On making alteration to some legislative acts of Ukraine in relation to limitation of government control of economic activity" envisages the necessity of obtaining the license for conducting trade in medical product, veterinary medications and preparations, pesticides and agrochemicals, pyrotechnic equipment [6].

In practice while obtaining permissive documents one encounters a number of certain obstacles - requirements for obtaining all necessary documents for conducting trade activity are "dispersed" through many legislative acts, and separate permissive documents (permission on placing the trade object) are obligatory under decisions of organs of local self-government. For a long time a necessary condition for undertaking trade activity has been the availability of trade patent (in the law of Ukraine "About patenting some types of entrepreneurial activity"). However, on the basis of paragraph 2 from chapter XIX of the Internal revenue code of Ukraine the indicated law loses its validity, and instead of payments for a trade patent "business fee" is collected. The payers of this fee are legal and physical persons-businessmen, that get trade patents in the order set by article 267 of the Internal revenue code and carry out trade activity in places of off-take (including both wholesale and retail trade) [7].

For realization of trade activity the following trade objects can be set up [8]:

- 1) for wholesale trade – a goods depot; a warehouse;
- 2) for retail trade - a shop (food, nonfood, mixed); a pavilion; a booth, a stall; a tent; a tray, a bin; a goods depot; a warehouse, a storehouse.

In our opinion, the list of trade objects presented in the regulatory and legal act is characterized by certain contradictions and inaccuracies that are predefined by absence of clear interpretation of the indicated objects (in

particular, it is difficult to understand the difference between concepts "warehouse", "storehouse" and what peculiarities determine their creation). Their explanation, in our view, should be consistent with State Standard of Ukraine "Trade retail and wholesale. Terms and definitions of concepts".

Besides, it is unreasonable to include into the list of trade objects in retail trade a goods depot, where, most frequently the place itself for retail trade is absent. Beyond the indicated list of trade objects there are such objects as "wholesale base", "wholesale food markets" (in Ukraine they function).

Thus, the fundamental terms of creation and functioning of trade business entities are fulfilled on the basis of a row of legal documents where they are not disclosed to the full.

Secondly, to perfect regulation of work of retail trade enterprise in relation to reception, storage and preparation of goods for sale (the presence of corresponding receiving documents on all goods with their name, amount, price indicated); the observance of rules of goods storage by subjects of retail business in compliance with basic sanitary requirements; to set requirements to retail dealers to provide information about places of sale of certain goods, the location of trade departments, pointers that could provide for better orientation of consumers; to come up with new terms to improve the rules of consumer service (an order of priority service of certain categories of consumers; consumer servicing while selling goods and delivering them to the place of destination).

Thirdly, to set conditions for conducting wholesale trade by corresponding business entities. In particular, in accordance with specialization they must have properly equipped storage facilities, transport vehicles, turnover means, skilled personnel. There is the necessity to draw up the program of development, the strategy of small-scale wholesale trade development in Ukraine. There must be an incentive to develop large wholesale companies, while small-scale wholesale

trade must be done in relations to those commodities, where it will not form the multi-chain channels of commodity circulation.

It is worth emphasizing that there is no systemic legislative regulation of wholesale trade in the vast majority of foreign states. There are general requirements to commodities that are for sale and spread by the subjects of wholesale and retail trade. Those requirements are the obligatory marking, certification of some types of goods, requirements to their packing.

As a separate course of state policy in the field of domestic trade it is essential to distinguish conditions for sale of goods (foodstuff, nonfood), including conditions for realization of the specialized trade. In particular, sale of certain groups of commodities, first of all, food, is regulated by Rules of retail trade in food stuffs, that are ratified by order of the Ministry of Economy and European Integration of Ukraine from 11.05.2003 №185 [9]. This document defines the general course of conducting retail trade of commodities, regulates the procedure of acceptance, storage, preparation to sale and sale of food stuffs through a retail trade network, and also requirements to the quality and safety of commodities and the standard of trade service. A separate chapter (chapter II) highlights the necessity for setting special demands to the complex of basic and subsidiary operations in the processes of retail trade in certain groups of commodities (bread and bakery, pastry, etc.). These requirements must be met by all subjects of trade activity that carry out retail trade in foodstuff.

In our opinion, in this document (as in others) there is no list of sanitary-hygienic requirements to the apartments of trade objects where reception, storage and sale of foodstuffs and food raw material is done. The basic sanitary requirements to the trade enterprise and its employees pertain to employees and their content is declarative.

Secondly, there is no prohibition in relation to the artificial extension for terms of sale of commodities by cutting, prepacking and further packing of products (the document only envisages sale of foodstuffs during specified terms of shelf life).

Thirdly, certain outlined recommendations to carrying out some operations imply fulfillment by out-of-date technologies (p.5.18-5.19 of this document); another row of requirements contain demands that are not met in practice and cannot be used by a retail trade enterprise (prohibition to sell bread to persons who take money from customers).

Apart from the above-mentioned regulatory and legal document, there is a row of other documents containing rules of trade in separate commodities: Rules of retail trade in alcoholic beverages, ratified by Resolution of the Cabinet of Ministers of Ukraine from 30.07.1996 №854 with amendments and supplements [10]; Rules of retail trade in potato and fruit and vegetable products, ratified by order of the Ministry of Foreign Economic Relations and Trade of Ukraine from 08.07.1997 №344 [11].

A separate document regulates trading in nonfood commodities (Rules of trading in nonfood commodities, ratified by order of the Ministry of Economy of Ukraine from 19.04.2007 №104 [12]). They regulate the order of reception, storage, preparation to sale, and sale of nonfood commodities through a retail trade network.

Trade of this kind must be conducted through the specialized enterprises, enterprises with the wide range of nonfood goods or specialized departments, finely retail trade network; requirements are laid down in relation to marking of nonfood commodities of certain groups, conditions and methods of their storage, order of placing and locating. It is necessary to emphasize that all these conditions pertain merely to commodities of home production, beyond legislation are

commodities of foreign manufacturers; some clauses (article 9, ch.5) are outdated, other - norms are of general character (article 5, ch.6 about observance of fire safety and sanitary requirements rules when transporting and storing commodities).

An important direction of state policy in the field of domestic trade are the measures aimed at protecting consumer rights in the process of purchasing commodities. In compliance with norms of the Law of Ukraine "On protection of consumer rights" when purchasing products for sale on the Ukrainian territory, consumers have a right on [13]: protection of their rights by the state; proper quality of products and services; safety of products; necessary, accessible, reliable and timely information about products, its amount, quality, assortment, and also about its manufacturer (performer, salesman); compensation of the property and moral harm inflicted as a result of faulty products (defects in products), under the law; taking the case to court or other authorized agents of public organs for the protection of the infringed rights.

We believe that the basic problems of legislation on protection of consumers are as follows: not clarified terms of reimbursement of all losses of a retail trade enterprise, that arose after meeting requirements of consumers regarding defects of goods, that were caused by commodity producer.

Secondly, the Law of Ukraine "On protection of consumer rights" and the Civil Code of Ukraine contain considerable divergences in relation to application of forms of consumer protection in case of purchasing commodity of improper quality. Thus, the Law of Ukraine "On protection of consumer rights" narrows consumer rights - envisages two forms of defense at the exposure of defects in the purchased commodity (return of the prepaid sum of money; replacement of commodity).



In the Civil Code of Ukraine four methods are put forward (a requirement to remove defects free of charge, substitute commodity for the analogical commodity of the proper quality, reduce the price, return the prepaid sum of money) that can be used in case defects have been detected by a consumer. Drawing upon the above-mentioned, it is possible to come to the conclusion that indicated norms of the Law of Ukraine "On protection of consumer rights" conflict with greater legal force, that is the Civil Code of Ukraine.

Determining directions of state policy, it is necessary to choose a course on market and competition development in the system of domestic trade instead of strengthening state influence on economic development. The sphere of domestic trade effectively functions under conditions of competitive environment that is created by effective competition policy. Under present-day conditions the legal framework for pursuing competition policy in Ukraine is a legislation on defense of economic competition, that is based on norms set in the Constitution of Ukraine, and consists of laws of Ukraine "On defense of economic competition" (2001), "On Antimonopoly committee of Ukraine" (1993), "On protection from unfair competition" (1996), regulatory and legal acts accepted in accordance with these laws. In these legislative acts, the features of defense of competition in the field of domestic trade are not separately considered, general principles in relation to the development of competitive relations in the national economy are determined.

Special legal documents on domestic trade give just a brief run-down on conditions needed for the development of competition and establishing control mechanisms over actions that can lead to the emergence of new or strengthening the influence of existing monopolistic organizations on the market, in particular by concordance with organs of the Antimonopoly committee the creation, reorganization of business entities or purchase of their assets, creation of

associations, inter-branch, regional and other kinds of integration of enterprises; measures aimed at resisting monopolization of markets in case of bankruptcy and liquidation of enterprises.

The conducted analysis of the development of competitive environment in the field of domestic trade revealed problems that characterize competitive relations and thus, require drastic changes in the policy directed at forming and developing competitive environment.

The conducted analysis of directions of state policy on establishing competitive business in the field of domestic trade allows to distinguish the following flaws:

- 1.imperfection of legislation which manifests itself through a substantial number of documents where relevant information is dispersed, oftentimes it is contradictory, what leads to the development of shadow circulation of commodities;

- 2.complexity of obtaining permissions, bureaucracy and corruption, plenty of supervisory organs, imperfection of functions distribution among central and local government bodies;

- 3.absence of unified position principles of development of enterprise in the field of trade, thus emergence of obstacles for the free functioning and development;

- 4.common are regulations on control after legitimacy of trade business.

Thus, in Ukraine the efficiency of state policy on development of enterprise in the field of domestic trade decreases due to contradictions and inaccuracies in enacted laws and other regulatory and legal acts ratified by corresponding government bodies. Legal norms of state policy in the field of domestic trade yet are under influence of old approaches and does not account for new modern principles of functioning of its subjects. Therefore, it is urgent to

adopt the Law of Ukraine "On domestic trade" in its new release, containing clear concepts and categories, systematized principles of realization of wholesale and retail trade, basic forms of support of development of trade objects and functioning of honest competitive relations.

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