УДК 346.54

LEGAL BASIS OF ANTIMONOPLY REGULATION IN EUROPE, NORTH AMERICA, CHINA AND EURASIAN ECONOMIC UNION

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The paper analyzes the legal framework for antimonopoly regulation in Europe, North America, China and the Eurasian Economic Union. A brief history of the development of antimonopoly regulation in these countries is given, the specifics are in accordance with the differences in the economies of these countries and the goals that they set for themselves at a particular stage in the development of antimonopoly regulation.

Key words*:* antimonopoly regulation; specifics of antimonopoly regulation; goals of antimonopoly regulation; antitrust regulation in Europe; antitrust regulation in North America; antitrust regulation in China; antimonopoly regulation in the Eurasian Economic Union.

ПРАВОВАЯ ОСНОВА АНТИМОНОПОЛЬНОГО РЕГУЛИРОВАНИЯ В ЕВРОПЕ, СЕВЕРНОЙ АМЕРИКЕ, КИТАЕ И ЕВРАЗИЙСКОМ ЭКОНОМИЧЕСКОМ СОЮЗЕ

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В статье анализируется правовая база антимонопольного регулирования в Европе, Северной Америке, Китае и Евразийском экономическом союзе. Дана краткая история развития антимонопольного регулирования в этих странах, специфика - в соответствии с различиями в экономике этих стран и целями, которые они ставили перед собой на том или ином этапе развития антимонопольного регулирования.

Ключевые слова: антимонопольное регулирование; особенности антимонопольного регулирования; цели антимонопольного регулирования; антимонопольное регулирование в Европе; антимонопольное регулирование в Северной Америке; антимонопольное регулирование в Китае; антимонопольное регулирование в Евразийском экономическом союзе.

Antimonopoly regulation makes it possible to establish and implement the rules for conducting economic activity in commodity markets in order to protect fair competition, limit monopolistic activity and ensure the efficiency of market

relations. In different countries, antimonopoly regulation is implemented using different legal mechanisms.

The European system of antimonopoly regulation provides for control over monopolistic associations in order to prevent them from abusing their dominant position in the market, registration of certain types of agreements to create monopolies or significantly restrict competition. If these agreements conflict with public interests, they are declared invalid by the antimonopoly or other state body registering such agreements, by a higher state body or courts.

In Western Europe, antitrust laws became widespread after World War II, but competition regulation varies from country to country. For example, in France, tight control is a strength, while German antitrust laws have been heavily influenced by US law [5, p. 132].

Within the framework of the European Union, the key provisions of antitrust law are enshrined in Art. 81, 82 of the Treaty of Rome establishing the EU. Article 81 prohibits the conclusion of agreements and the implementation of joint actions that would have an impact on trade between member countries and the purpose of which would be to prevent, restrict or disrupt competition in the common market. Agreements contrary to Art. 81 are considered canceled automatically. Article 82 prohibits the abuse of a dominant position by any concern in the common market, which would influence trade between other states.

In the EU, the main task of competition policy was defined as "the creation of a regime that ensures the conditions under which competition in the Common Market will be of a normal nature." Competition policy in the EU does not exist in isolation, but develops within the framework of global integration policy and penetrates into all spheres of economic activity. The European Commission regulates in four areas of antitrust policy:

1) control over anti-competitive agreements and abuse of dominant position;

2) control over the merger of firms;

3) liberalization of economic sectors related to the sphere of natural monopoly;

4) regulation of state aid [3, p. 42].

Until the end of the XIX century. the countries of North America did not know written antitrust law. The United States was formed in the era of the heyday of the ideology of free competition, and economic regulation was built there in the most liberal way. However, by the end of the XIX century. in the United States, as well as in England, the low suitability of common law for resolving the complex problems of regulating competition and monopoly began to be felt, since, in a number of cases, the norms of common (custom) law aimed at protecting free competition could be aimed both at protecting against

monopoly, and the protection of the monopolies themselves, because the impact of the state on monopolies could be interpreted as an encroachment on market freedom, on freedom of competition (from the state).

Gradually it became clear that common law mechanisms were not enough to successfully counter the abuses of monopolies in the United States. By the end of the XIX century. under the influence of the predatory behavior of the monopolistic associations that were gaining strength, North Americans realized the need to take more decisive measures to protect society from the threats of the "satanic desire" of monopolies, to regulate antitrust measures in written law.

The rapid growth of monopolism, the abuse of monopolies required a legislative solution to the issue, and at the end of the 19th century. In the countries of North America for the first time antitrust acts of written law were adopted. However, state laws were on the whole so straightforward and rigid in their prohibitions against monopolies that they were practically not applied by the courts for fear of creating an obstacle not only to speculative monopolies, but to any legitimate and useful business practice in general.

Thus, in North America, which overtook Europe in creating its own antimonopoly rules and in their harshness, in some cases even surpassed European countries, far from everything was going well with the construction of an effective system of antimonopoly policy. Being directed at the business associations themselves, and not at their harmful market behavior, North American laws, primarily US acts, became not only a club against malicious monopolists, but also a threat to the development of economic life in general. According to figurative expression, along with the water from the trough, it was possible to accidentally throw out the baby.

At the end of the XIX century. both the countries of North America, even after the adoption of the first antimonopoly laws, and the countries of Europe needed new approaches and new mechanisms to solve the problem of monopolies. New approaches in North America have been intensely sought. Cartel law issues were at the forefront of popularity at the turn of the 19th and 20th centuries.

The first US federal antitrust legislation was the Interstate Commerce Act of February 4, 1887, "which had the task of streamlining the railroad business."

This Law was not exclusively antitrust oriented. He pursued the goal of streamlining rail transportation in general, since many problems for society and the state have accumulated in this area.

In 1890, the United States adopted a special antitrust or antitrust law - the Sherman Law, which got its name from the senator who proposed it. Speaking briefly about the content of this Law, it declared illegal any agreements and associations restricting trade; monopolization was recognized as a crime; criminal sanctions were imposed against the perpetrators.

In 1890, the United States adopted a special antitrust or antitrust law - the Sherman Law, which got its name from the senator who proposed it. Speaking briefly about the content of this Law, it "declared illegal any agreements and associations restricting trade; monopolization was recognized as a crime; criminal sanctions were imposed against the perpetrators." The Sherman Act, in its original form, was also a failure. Straightforward strict bans on monopolies as such have not justified themselves. These first legislative experiments at the end of the 19th century de facto turned out to be of little use for protecting society from the domination of monopolies without the danger of damaging the country's economy, the normal course of its economic development.

The very first specialized administrative agency directly authorized in the field of competition policy was created in 1914 and was called the Federal Trade Commission, which operates in the United States to this day as one of the competition agencies in this country.

On October 15, 1914, another antitrust law was passed to improve on the Sherman Act, the Clayton Act.

To date, the Sherman Act, the Clayton Act, and the Federal Trade Commission Act form the foundation of US antitrust law [2, p. 321].

The legislation of the PRC, aimed at protecting competition and directly ensuring a competitive environment in the Chinese economy, is represented by two legislative acts:

Antimonopoly Law of the People's Republic of China <1> of August 30, 2007, adopted in order to prevent and limit monopolistic tendencies, protect fair competition in the market, increase economic efficiency, protect the interests of consumers and the interests of society and the state, and promote the healthy development of the socialist market economy;

Law of the People's Republic of China on Combating Unfair Competition <2> of September 2, 1993, which aims to protect the healthy development of the socialist market economy by promoting and protecting fair competition and preventing unfair competition to protect the legitimate rights and interests of manufacturers and consumers.

Antimonopoly regulation, carried out on the basis of the Antimonopoly Law of the People's Republic of China, mainly uses public law methods of influencing competitive relations [4].

The experience of the EAEU shows that the policy in the field of antimonopoly regulation and competition is one of the main tools through which the harmonization and proper functioning of antitrust laws in the EAEU countries are carried out.

A lot of work is being done in the EAEU in accordance with the main directions of antimonopoly regulation of cross-border commodity markets; the antimonopoly authorities of the EAEU member countries interact and cooperate

with each other; competition is being advocated and antimonopoly laws are being improved. The norms of the antimonopoly legislation are aimed at protecting the domestic market, promoting the promotion of goods, services, capital and labor resources to foreign markets, providing support for the economic activity of business entities and reducing prices.

In the member countries of the EAEU, antimonopoly laws contain regulations on the suppression of unfair competition, the purpose of which is to prevent the use of unfair methods of competition by economic entities in the markets.

Antimonopoly regulation in the EAEU member countries has its own specifics in each of these countries, since there are differences in their economies and in the goals that they set at a particular stage of development. However, despite these differences, the member states of the EAEU strive to pursue within the framework of the EAEU on the basis of common approaches a unified coordinated antimonopoly (competitive) policy aimed at protecting competition and limiting monopolistic activities; on harmonization and unification of national antitrust laws.

The antimonopoly legislation of the EAEU member countries can be divided according to the levels at which the legal regulation of competitive relations is carried out, into national and supranational.

The EAEU member countries pursue a unified coordinated competitive (antimonopoly) policy in cross-border markets in accordance with the provisions of Art. 75 of the Treaty on the EAEU on the general principles of competition to be developed in the national legislations of the member countries. This contributes to the achievement of the goals set in the Treaty on the EAEU (Article 2), cooperation and mutual support in antimonopoly activities, ensuring the guarantee of fair competition and the functioning of the EAEU as a whole, since according to Art. 3 of the Treaty on the EAEU, its activities are based on the observance of the principles of a market economy and fair competition [1].

Thus, we examined the legal framework for antitrust regulation in Europe, North America, China, and the Eurasian Economic Union. Antimonopoly regulation in each of these countries has its own specifics, since there are differences in their economies and in the goals that they set for themselves at a particular stage of development.

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