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COMPETITION AND HIDDEN MONOPOLY IN THE MARKETS OF UZBEKISTAN

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ABSTRACT

In order to maintain and strengthen his market position in a competitive environment, an entrepreneur must constantly work on himself, look for ways to reduce the cost of goods, introduce marketing, and advertise. In the literature, agreements on mutual agreement, increase, and coordination of prices by competitors without competition are called cartel agreements (collusion). It is said that such cooperation of competitors in setting prices allows them to act like a "hidden" monopoly.

KEYWORDS

Market; economy; competition; price; monopoly; businessman; cartel; the law; Uzbekistan; agreement; country.

INTRODUCTION

In the market economy system, despite the fact that there are now several competing entrepreneurs in the markets, prices continue to rise. The reason for this is not only due to natural economic factors, on the contrary, different price increases by several competing entrepreneurs due to artificial reasons, for example, on the eve of holidays, during the holy month of Ramadan, as well as during the pandemic, the price of goods in our country increases. rising has become commonplace. Experts explain the increase in prices

with various economic factors, such as increased demand, inflation, reduction in production and imports, etc., but the reason for the increase in prices is not always due to natural economic factors.

It is known that the more competitors in the market, the fiercer the price competition. Therefore, the positive result of competition for the consumer is lower prices. In practice, the presence of several competitors in the market does not always mean lower

prices. For most entrepreneurs, competition is an uncomfortable process. In order to maintain and strengthen his market position in a competitive environment, an entrepreneur is forced to constantly work on himself - to look for ways to reduce the cost of goods, to introduce know-how and marketing, and to advertise. Roughly speaking, competition for an entrepreneur means extra costs, lost profits, headaches and hard work. Therefore, in practice, most entrepreneurs prefer cooperation (working together) than competition. The main goal of any entrepreneur is to increase income, and for this, he should sell his goods at a higher price as possible. But it is dangerous for an entrepreneur to unilaterally raise the price of a product, because the consumer may go to the side of his competitors who offer the product at a lower price, and as a result, the entrepreneur may lose his customers. But there are also effective ways to solve this problem - you can agree with competitors on raising prices, because raising prices is equally beneficial for everyone. In addition, the risk of losing customers as a result of simultaneous price increases by competitors is minimal, as the previous price difference between competitors is preserved. At the same time, their profit from the price increase will now be much higher. Therefore, when entrepreneurs work together, their income is higher and more stable than in a competitive environment. According to the sources, agreements on mutual agreement, increase and coordination of prices by competitors without competition are known as cartel agreement (collusion). This cooperation of competitors in setting prices allows them to act like a "hidden" monopoly, since a monopoly can raise prices at any time and reduce production to create artificial shortages. From the outside, it seems that there are several competing entrepreneurs operating in the market for the consumer and that there is competition between them, but in fact this may be just an illusion of

competition. Cartels are a dangerous violation of competition, even worse than monopoly, because the monopolist acts openly, while the cartels act secretly.

Cartels are a type of crime against consumers that violate the principles of market economy, cause hypocrisy (hypocrisy) in the market. (Uzb national encyclopedia) In addition, cartels can deprive consumers of the benefits of the reforms carried out by the state to reduce monopolies and develop entrepreneurship. For example, in order to reduce the price of vegetable oil in our country, one of the reasons why the VAT on import of vegetable oil was set to zero did not reduce the price of vegetable and cottonseed oil. it was determined that it was due to price increases. Also, we cannot say with full confidence that the increase in the number of car manufacturers in Uzbekistan will lead to a decrease in car prices, as there is a risk of cartel agreements by manufacturers in the automobile industry. In addition, the recent entry of a private airline into the air transport market may not lead to the expected price reduction for consumers, as there is no possibility of price collusion between national and private companies.

Cartel agreements are prohibited by law in many countries, and in some countries they are criminal. According to Article 11 of the Law of the Republic of Uzbekistan "On Competition", which entered into force on October 4, 2023, it prohibits concerted actions and agreements of economic entities that restrict competition and prohibits such cartel agreements, that is, competition It is a clear statement that committing such an offense by violating the legislation on consumer rights and the legislation on consumer rights will result in the responsibilities currently stipulated in Article 178 of the Administrative Responsibility Code of the Republic of Uzbekistan done

Cartel agreements are also common in public procurement tenders, where participants can agree on price increases or determine the order of winners, which causes "significant" damage to the state budget. According to research, as a result of cartels in tenders, tender sales cost the state 20-30% more.

Cartel violations are complex to uncover and even more difficult to prove because cartels are organized in secret, often verbally (by phone, correspondence, meetings and events). Cartels are usually not put into a written agreement because they can be used as strong evidence against the cartel if it is exposed. Therefore, it is very difficult to prove cartel agreements in practice.

Competition law requires the Antimonopoly Committee to provide direct evidence of an agreement between competitors. Given the oral and secret structure of cartels, it is very difficult, sometimes impossible, to prove the existence of an agreement between competitors and to find direct evidence.

Are there cartels in the markets of Uzbekistan? There is no information on the number of cartels in the country's markets, but no one can rule out that we do not have cartels. According to the statistics of the anti-monopoly committee, in 2021, the number of cartel agreements was determined in 25 cases, and 4,887 cases were related to tender sales. For comparison, in neighboring countries: in Russia in 2022, 354 cases of cartels were initiated, of which 242 related to tenders, in Kazakhstan in 2021 - 24 cases were initiated on cartel agreements.

Cartel agreements are a headache even for developed countries that have advanced in the market economy, because today a new type of cartels - digital cartels - has begun to appear.

Why are cartels not exposed in Uzbekistan, what is the problem? There are several reasons for this:

1. The fact that the anti-monopoly committee does not have additional powers to identify and prove the agreement. In order to determine direct and indirect evidence in international practice, the Anti-Monopoly Committee has been given additional investigative powers (IT forensics, surprise inspections, informal surveillance, interrogation, etc.) and closely cooperates with law enforcement agencies in this regard. they cooperate. However, the Anti-Monopoly Committee of Uzbekistan does not yet have such powers.

2. The amount of the administrative fine established for cartel agreements is very low: the maximum amount of the fine is 10 times the amount of the basic calculation (BHM) for officials, i.e. 3 million 330 thousand soums. Imagine that with the help of cartel agreements, dishonest businessmen illegally earn millions and billions, and in case of exposure, the maximum fine is only 3,330,000 soums. In addition, we do not have liability of legal entities for cartel agreements, fines are applied only to their officials. In many countries, the legal entity itself is held liable for cartel agreements, and the amount of the fine is 5-10% of the company's annual turnover (or profit) for the period of the cartel. That is why there are many cases where fines amount to hundreds of millions of dollars. In some countries, for example, in the USA, Germany, Japan, even criminal responsibility (up to deprivation of liberty) is provided. It should be noted that the most effective mechanism for disclosing cartels in international practice is the leniency program. The mechanism of operation of this program is very simple: for example, the Anti-Monopoly Committee begins to investigate a suspicious synchronized increase in prices, then one of the cartel participants, fearing exposure, voluntarily turns to the Anti-Monopoly Committee, confesses his

guilt and receives the necessary provides evidence. For pleading guilty and cooperating in the disclosure of the cartel, this cartel member will be exempt from punishment, and the rest of the participants will be held fully responsible. The legal basis for the implementation of this program in Uzbekistan is that according to Article 27, Clause 9 of the Law "On Competition", which was adopted in a new version in 2023, a dominant position of the relevant economic entity or group of persons occurs in the commodity or financial market. Legal and (or) natural persons who have made a decision to perform actions (contracts) that may lead to the emergence or strengthening of competition and (or) restriction of competition shall restore the necessary conditions of competition at the request of an authorized state body. , but we have yet to witness its implementation. The Antimonopoly Committee's website even has a special section called "Report a Cartel". but so far, none of the cartel members have reported that they have increased the price among themselves. This is because cartel participants believe that the antitrust authority is powerless to prove the existence of a collusion, and even if discovered, the fines are small.

The experience of developing countries shows that cartels are often found in food (including agricultural products), health care, transport, education, construction materials and fuel markets. For example, the international practice of identifying cartels shows that cement cartels exist in almost all countries. Cartels have also been found to be widespread in the public procurement of training materials and in the private health sector. In addition, trade associations are one of the convenient places for agreeing and coordinating prices among entrepreneurs. Also, I would like to draw attention to the fact that there is a risk of cartel agreements in the market, where cartel agreements are often formed in pandemic and crisis conditions, and reforms to reduce the number of monopolies and

ensure consumer stability are not effective enough to form a market economy in the country. This article discussed only some aspects and types of cartel agreements, besides there are other types of agreements, such as tacit collusion, vertical agreements, signal cartels (price signaling) and others.

CONCLUSION

In conclusion, in order to improve the state of cartel detection in the country, it is possible to consider two alternative solutions to the problem:

1. Giving the Antimonopoly Committee additional powers to identify and prove cartel agreements. However, at present this proposal may be difficult to implement and may face the following obstacles:
 - a) Strengthening the powers of the anti-monopoly committee can be seen as contrary to the policy of creating favorable conditions for existing entrepreneurs (in fact, only dishonest entrepreneurs are targeted in the fight against cartels).
 - b) There is a concern about misuse of powers by the anti-monopoly committee employees;

According to the current legislation, proving the fact of the cartel agreement and collecting evidence is assigned to the Anti-Monopoly Committee, which does not have the relevant powers. If there is a simultaneous increase in prices in the markets, now the Anti-Monopoly Committee may require entrepreneurs to prove that the suspected price increase is not the result of a cartel agreement and to show reasonable economic reasons for the price increase. If the Anti-Monopoly Committee or the court finds the economic reasons given by entrepreneurs to be unfounded, then the price increase can be recognized as a cartel agreement. To solve these problems, it is necessary to



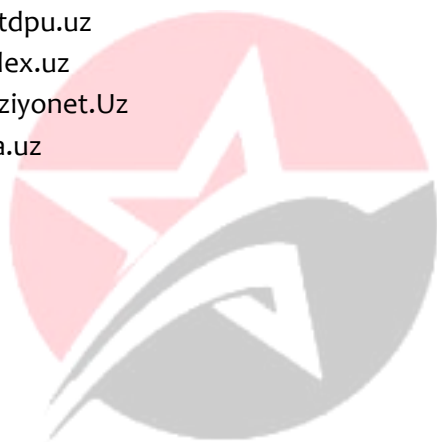
develop a separate national concept for the fight against cartels.

REFERENCES

1. O'zbekiston Respublikasi konstitutsiyasi- 2023
2. “Raqobat to'g'risida” gi qonun O'RQ-850-son (03.07.2023)
3. Oyqulov O., Mansurov K.,Xodjayev B. Raqobat huquqi – Toshkent, TDYul 2008- 178b
4. Mualliflar jamoasi. Raqobat huquqi. Darslik – T.: TDYU nashriyoti, 2017, 239 b

Electronic sources:

1. www.tdpu.uz
2. www.lex.uz
3. www.ziyonet.Uz
4. gazeta.uz



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