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PROBLEMS OF MANAGING CORPORATE RIGHTS UNDER CONDITIONS OF CONCENTRATION OF SHARE CAPITAL

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The structure of stock ownership and existing mechanisms of rivalry between corporate ownership (CO) participants for gaining power in a joint-stock company (JSC), which had been formed in the domestic corporate sector in the process of privatization, initiated conditions for formation and conservation of an insider mechanism of corporate control (CC) at domestic joint-stock companies. Subsequently, domination of insiders (owners of large blocks of shares) became the most significant obstacle for participants of CO in the process of using advantages, which are inherent to a stock form of organizing the entrepreneurial activity. For instance, Yu. Yakovlev (Yakovlev Yu., 2005: 11-13) points out that exactly under conditions of undertime of the choice of time and determination of amounts of the share block sale in mass privatization, strategic investors are the main subject of this process. The investors aimed at concentration of corporate control for expansion of opportunities of ignoring interests of other shareholders (first of all, minority shareholders).

Expansion of corporate conflict situations (CCS) also became a negative consequence of acceleration of processes of share capital concentration. Escalation of rivalry for corporate control at joint-stock companies is one of reasons, which cause the CCSs. It is worth mentioning, an attempt of particular participants to gain certain corporate control underlies nearly all conflicts at domestic joint-stock companies. The internal control over a JSC is a powerful instrument of protection of shareholders' interests under a modern mixed system of corporate management.

Keeping a JSC under total insider control is the most important requirement for providing shareholders' lawful rights and interests under a current state of corporate relations. The loss of the control may almost inherently lead to dramatic devaluation of corporate rights. Consequently, in the described terms of domination of insiders and absence of an effective market mechanism of setting the real value of securities and redistribution of CC over a joint-stock company, the range of powers regarding disposition of corporate property affects the value of the corporate rights (CR). These powers follow from a fact of possession of a particular share block and opportunities (including, the force) to provide realization of these powers.

Conversely, evaluation of corporate rights, which do not allow an owner to gain access to participation in making managerial decisions concerning usage of stock capital and distribution of obtained results, will depend on strength of positions of an insider, who execute powers at a JSC, in rivalry for corporate control. The CR value is mainly influenced by the potential corporate right owner loss of measures on prevention of attempts of other contenders concerning gaining corporate control through usage of determined powers following from a fact of possession of a particular share block.

Under absence of a threat of the insider control loss, an opportunity of direct receipt of JSC dividends will affect the value of minority corporate rights. Nevertheless, reinvestment of profit obtained by a JSC as well as borrowing funds are the only sources for financing corporate development under the described situation. Domestic joint-stock companies frequently have to make economically irrational decisions, e.g. involvement of many high interest debt resources in order to protect insider control under conditions of the inability of receiving investment resources through emission. Nevertheless, from the author's point of view, problems of CR development arising at corporate and privatized companies are not unique and inherent only to transformational economies. Conversely, such problems to some extent arise even in countries with developed market relations, where centuries-old traditions of a stock business exist. Contradictions and discrepancies in the process of formation stock ownership should be settled due to development of mechanisms for investor rights protection and corporate management. Under conditions of the transformational economy, development of JSCs occurs concurrently with formation of norms and rules of market regulation (including, norms of corporate management). Simultaneous occurrence of both processes significantly complicates effective application of a joint stock form of organizing a business, but it forms beneficial conditions for its comprehensive improvement.

Therefore, formation of corporate management systems under conditions of the transformational economy is an integral component of market reformation processes. A complicated complex of social, economic and political factors considerably affects this component. Formation of outcome features of the national system of corporate management occurs during a process of mass privatization and significantly depends on the ability of the government to provide conformity with determined rules of privatization strictly and gradually. Violation of these rules and an opportunity of any participant of corporate relations to interfere in formation of the corporate control structure will result in creation of a mixed or hybrid system of corporate management. In such a system, rights and interests of some participants of corporate relations will be abused. As a result, it will negatively influence the

activity of national corporations. Thus, in the process of further development of corporate relations and corporate management, the function of the country consists in formation of institutional conditions for providing comprehensive protection and coordination of lawful interests of all the participants of corporate relations.

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UNFAIR COMPETITION IN THE LEGAL SERVICES BUSINESS: CHALLENGES TO THE LEGAL ECONOMY

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The legal economy is a system, in which the legal economic activity of some business entities does not endanger opportunities of other business entities to exercise their social and economic rights. Criteria of the legal economy are as follows: the lawful, regulated economic activity; the clear formulation of rights for each business entity; equal opportunities in exercising their social and economic rights (Ovsiienko, 2015: 103, 106).

Unfair competition is one of challenges to the legal economy. The Law of Ukraine «On Protection against Unfair Competition» defines the unfair competition as any acts in the competition that contradict trade and other fair business practices. The Antitrust Committee of Ukraine (ATCU) defines the unfair competition as the violation of rules of the business practice, which are broadly applied in entrepreneurship and are recognized by entrepreneurs as obligatory business norms that injure relations of fair competition and freedom in the entrepreneurial activity. Unfair competition is dishonest actions of a businessman aimed at elimination or restriction of competition in a market through usage of another's business reputation, formation of obstacles for a rival, obtaining unlawful benefits in competition on a market, unlawful collection, dissemination, and usage of a commercial secret (amc.gov.ua, 2016). The author agrees with researchers, who consider unfair competition as the abuse of a right to freedom of competition on the part of business entities (Shchokin, 2014: 19).