



*Microeconomics*

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**INTEGRATED CORPORATE STRUCTURES  
UNDER TRANSITION ECONOMY:  
COMPLIANCE WITH THE WORLD  
STANDARDS OF LEGAL  
AND ECONOMIC PRACTICE**

**Abstract**

By analyzing the organizational and methodological principles and financial aspects of establishing integrated corporate structures in Ukraine, the author determines the degree of compliance of the domestic version of business groups organization with the world practice, as well as discusses the drawbacks of the legal basis for creation of the given structures.

**Key words:**

business-group, consolidation of industrial and financial capital, corporate rights, corporation, domestic capital market, economic power, holding, industrial and financial group, integration of enterprises, synergetic effects

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The strategy of transition to modern market relations calls for deep theoretical understanding and analysis of the creation and organization of integrated corporate structures, which can substantially influence the solution of the problems related to ensuring sustained economic growth. At the same time, it should be taken into account that modern economic, socio-political and cultural development of Ukraine takes place under the increasing influence of integration processes, which is typical of the modern stage of development of the world economy. That is why the accordance of the national conceptual approaches to formation and functioning of affiliations of enterprises with the world practice should be recognized not only as a systemic factor of perspective development of the socially oriented economy, but also as an important stage on the way to Ukraine's integration into the EU.

The problems of functioning of integrated corporate structures and their influence upon national economies are thoroughly researched in both the national and the foreign economic literature. A significant contribution to this research was made by national scientists S. Bilousova, B. Hubsnyi, V. Yevtushchynskyi, E. Kibenko, N. Kizym, I. Moroz, V. Novytskyi, O. Plotnikov, V. Polonskyi, V. Rokocha, L. Rudenko, V. Sutromina, H. Umantsiv, V. Fedosov, and others.

The review of literature available in this field allows asserting that today the post-socialist countries go through the process of defining and substantiating the notions of integrated corporate structure, holding, and corporation, as well as elaborating the scientific and practical approaches which would comply with the juridical providing of the business in the developed countries. The need for further specification of separate economic and legal aspects of forming affiliations of enterprises, including the influence on these processes performed by economic power of individuals, has predetermined the direction of our research.

Deepening and merging of industrial and financial capital in Ukraine occurs in different ways, with no pretension of having stable or finished forms. Under conditions of concentration and centralization of financial and industrial capital, the expansion of industrial monopolies and formation of the state-monopoly sector of the economy take place by way of establishment and development of the new (for national economy) integrated corporate formations, which do not usually function within ordinary organizational and legal forms. The integration of business entities, as a rule, yields to affiliation on the basis of the system of corporate rights sharing, long-term liabilities, and other forms of dependence of the participants of a business-group. This is why the economic order of the country and the priorities of state economic policy predetermine the practical introduction of the organizationally formed groups of enterprises with clearly delineated legal forms.

The modern world and national economic literature interprets differently the notions of the forms of integrated corporate formations: corporation, concern, holding, financial and industrial group. Today, legislation lacks clear definition of these notions, and thus, we tend to assert that these affiliations are close in their essence, since they mean the one and the same economic reality, namely, a single group of enterprises collected together with the aim of gaining a profit. The matter in question is the integrated structure which gives an opportunity to accumulate financial resources in order to realize investments in the sphere of social production, to maximize financial results of all members of the group, and to realize the aim set by the owners of the amalgamated business-entities. At the same time, we should take into account that there are specific features typical of different groups of enterprises, which provides grounds for analyzing and substantiating the activity of each of them separately.

The members of the group from one industry, as well as those coming from other industries of the economy, establish special preferential relations among themselves, which can hardly be considered purely market ones. That is why western literature is dominated by the viewpoint on the motivation to establish such groups, which asserts that these processes are brought in by the underdeveloped market of such production factors as capital and information, as well as by the wish to overcome monopoly or oligopoly on the markets for raw materials and intermediate products. The demand of the group of industrial enterprises for banks and other financial institutions derives from the need for reliable sources of funds, which are hard to obtain on the capital market due to its underdevelopment or because of the interests of the state, which can collide with the interests of the group. Of course, we surely cannot dismiss the fact that formation of the groups of enterprises is related to the respective policy of the state. A classical example to it is South Korea, where the state at certain time was actively stimulating the creation of affiliations of enterprises in order to establish and develop import-substituting projects in the basic industries of the economy (production of cement, sugar, oil-refining) [11: 65].

For many years, the scientists and market practitioners have attempted and still attempt to understand the motives which govern corporations in forming integrated corporate structures. The modern economic science offers several theories of their formation: synergy theory, agency theory, theory of pride, etc. As note N. Rudyk, E. Semenova and others, the synergy theory is among the most spread ones, and which is considered a catalyst of formation of groups of enterprises both by scientists and by financial managers. It stipulates that when an association as a new corporation is formed, there appears a possibility of using a wide range of advantages (synergies), which emerge from amalgamation of resources. All synergetic effects may be divided into two types: operational and financial. Operational synergies include economies of operational costs (the agglomeration effect); savings of R&D costs (mutually complementary resources combination effect); expansion of the corporation's market niche (monopolistic strength). Financial synergies: creation of tax shields (increased size of dividend out-payments to shareholders, investment of spare funds into exchange market

instruments, buyouts of own stock, acquisitions of other enterprises); diversification (risk reduction and risk management) [20: 43–44].

At the first glance, such a motivation to creation of affiliations of enterprises resembles a well-known concept of forming corporate structures similar to «intra-firm market economy», where business-entities exist as profit centres or cost centres [3: 330, 338–339]. Sometimes, when a simplified approach to this concept is adopted, the arguments for the ridiculousness of the idea of intra-firm market economy reduce to negative aspects of transfer pricing as a surrogate of market pricing, functioning of internal product market, centralized planning and control. At the same time, the opponents of «intra-firm market economy», for example R. Akoff, agree with the fact that it not only provides a possibility of consciously preserving unprofitable subdivisions for attracting customers, manufacturing the products necessary for integration or finishing of the technological cycle of product manufacturing, but it also actively forms external product markets. This is primarily related to granting profit centres the permission to free purchase of products and services from any source and to independent sales of the products manufactured. This proves that, under market economy, the intra-firm market economy does not exist as a closed system, the economic value of which is associated only with a subsidized internal monopolist, but it is an open system integrated directly into the external market, which forms its activity together with subordinated «free» business-units. In view of this, we cannot fully agree with the thought of A. Rugman, the apologist of the concept that intra-firm market substitutes for traditional (external) market and, by means of administrative regulation, solves the problems of functioning of corporations [26: 86].

Undoubtedly, this is this market's nature to use administrative methods of economic processes regulation, but only within the limits that guarantee the vitality of business-group members and provide an opportunity to act on the traditional market in order to obtain a profit.

The integration of enterprises is a process of creating the intra-corporate market by setting up subsidiaries, branch enterprises, as well as by means of taking control over the existing firms which function in the necessary sectors of the «supply-production-sales» cycle. The formation of the affiliations of enterprises on this basis solves a whole set of problems: elimination of transaction costs connected with realizing operations with the entities on the traditional market; establishing control over the quality of raw materials and produce realized to ultimate consumers; achieving additional financial gains on the scale of production; ensuring control over sales of produce manufactured by enterprises – members of the group; allocating production objects so that to ensure maximal realization of monopolistic advantages, with consideration for long-term profits; minimizing the political risk and securing the guarantees for the group's property; a possibility of using state, in particular tax, policy of the government in own interests.

It should be noted that such approaches to explaining the theory of affiliation grant an opportunity to understand why modern integrated groupings clearly

separate and, simultaneously, combine their intra-corporate market with operations on the traditional market. This primarily happens because on the intra-corporate market, the affiliations of enterprises can use their advantages of owning advanced knowledge of technology, production organization, financial resources management, and financial engineering. On the traditional market, these affiliations of enterprises benefit from the existing and developed external market and non-market effects: economies of scale and product sales; use of intellectual property rights; corporate rights management; realization of preferences and privileges granted by the state. In other words, the affiliated enterprises should be understood as an organization, which has internal subordination of elements, as well as a set of processes, which lead to establishment of interrelations among separate elements of the systems. That is why, in adapting the general systems theory to affiliated enterprises of systemic nature, let us single out their internal and external functions [21: 136–137].

The internal functions as a precondition for the affiliation's external functioning, which provides the latter with the demonstration and existing of its members, include:

- regulating, that is, assigning certain activities to its members;
- coordinating and reconciling, which allow group members to realize collective actions;
- subordinating or co-subordinating, which stipulates for shared coordinative or sub-coordinative relations among participants;
- controlling, that is, checking whether actions correspond to certain standards;
- goal-setting, which presumes determination of the goal of the affiliation's functioning and development.

Major external functions of the affiliation that determine its active and direct influence on external environment with the aim of reaching the goal set, include the following:

- transforming, which is applied by the affiliation for transformation and taking over the market;
- adapting, which characterizes the affiliation as a system able to adapt to market environment and coordinate its actions with the surrounding institutions;
- absorptive consolidating, merging with other enterprises and groups of enterprises, expansion to other affiliations;
- servicing, servicing upper-level affiliations and receiving service from lower-level affiliations.

When substantiating the economic essence of affiliated companies, due attention should be paid to the philosophical and ideological component of their

formation and development. As noted L. Rudenko and A. Movseyan, to understand the drivers of economic development needed is the rehabilitation of voluntarism in social consciousness on the basis of scientific interpretation and unbiased view on its basic postulates. The matter in question is the economic power of an individual or a group of individuals represented by corporations. The power is thus achieved by combination of five elements: financial power; informational influence; coalition strength; connection with the state; availability of the instruments of power pressure [19: 46]. In practice, this results in corruption, oligarchy, including in particular bureaucratic oligarchy (as prove V. Andrushchenko and V. Fedosov). When researching the western theories of bureaucracy, the mentioned scientists accentuate its connection with the ruling power. They pointed to the acting R. Michels' «iron law of oligarchy», according to which the political parties and other mass organizations would inevitably grow towards oligarchic cliquishness, authoritarianism, and bureaucratism. The large scale and complexity of their activity, as note V. Andrushchenko and V. Fedosov, make bureaucracy turn into the oligarchic system of political dominance over society and economy [2: 7]. The «privatization of power» in the form of «iron triangles» (companies – banks – the state), which provide financing to unprofitable enterprises, are accentuated in the studies of Oxford Analitica as well [14: 7].

V. Dementyev, the researcher of the behavioural model of the theory of power in institutional and non-institutional theories, stressed that the relations of power in an economic system do not exist in their pure form and do not detach into separate, independent relations; economic power is an element, an aspect, a dimension, and a peculiarity of interaction among the agents in the economic system. The power is «interweaved» into the system of economic relations along with other aspects and characteristics of these relations. In the mentioned context, we can speak of power component or power aspect of economic relations. Power aspect can be distinguished in the relations of ownership, exchange, rent, production management, state regulation of economy, etc. [7: 56–57].

According to the theory of voluntarism, as acknowledged by A. Movseyan, the ideology of affiliation is based on economic power in close interplay with the state, pragmatism (Greek «pragma» – deed, act) and liberalism in terms of achieving openness of commodity markets on the state and inter-state levels.

Taking into consideration such a specific feature of ideology (philosophy) of integrated enterprises, it becomes easier to explain their capability of internalizing economic ties, that is, participating in the formation of trans-national corporations (TNC), which are also based on the synthesis of the theses of voluntarism ideology, which explains well the driving force and the aim of their activity; pragmatism, which substantiates the use of the ideology as an «instrument of action» in achieving the goals of TNC: occupation of the most developed and perspective segments of industrial production, taking over local companies, use of non-market mechanisms in economic processes, pressure on governments in the host countries (among others, with the aim of locating «dirty» manufacturing) [24: 747], as well as application of the policy of liberalism as a way to hide the attempts of levelling the protectionist barriers of the countries with imperfect leg-

isolation, which allows TNCs to use effectively national capital and labour markets in the less developed countries [19: 47, 115].

When researching the mechanism of creation and functioning of the affiliations of enterprises, it worth to note that they are formed on the heliocentric principles, with large firms dominating (the kernel of the group) and realizing general administrative and/or centralized control. The mechanism of coordinating the activity of enterprises in the affiliation is ensured by cross-ownership of stock and appointment of same directors; however, the ties among the members of the group can be realized through family or social relations. This type of consolidated management is proved by the practice of creating business-groups in the developed countries, where the participants and their family members control a part of joint stock. In the largest South-Korean business-groups their members have control over 30–60% of joint stock. In certain cases, for example in the Hende Group, the founder and his family have control over 15.8% of capital, in the SK Global – 17.4%, in the Han Djin – more than 20% [18: 4].

Business-groups operate in the whole world. They are called keiretsu in Japan, cheboly – in the Republic of Korea, economic groups – in Latin America, business-groups – in China and India. The study of 14 developing countries gives systematized facts about the significance of affiliated groups in the economy. It was found that the affiliated groups dominate on the business landscape. In these countries they controlled in average more than 52% of declared assets in 1990, and 59% of such assets – in 1997 [8: 60]. According to the World Bank's data, it is known that thanks to business-groups, the economic power is concentrated in the hands of few. In Japan, for example, 15 upper-class families have control over less than 3% of GDP, which corresponds to the value of registered corporate assets. And vice-versa, in East Asia, in the lower-income countries, such as Indonesia, the Philippines, and Thailand, outcomes are different. Here, 15 upper-class families account for more than 50% of registered corporate assets and more than 20% of GDP in each of these countries [8: 60]. In view of this, the authors of the 2002 World Development Report concluded that there are both positive and negative aspects of business-groups activity. The positive aspects include: the possibility of creating an internal capital market by financing new firms and mitigating the situation for their members at the time of financial chaos, as well as the possibility of coordinating rotation of managerial teams which perform poorly. The negative aspects include: when dominating the market of business-groups, the competition among those who exercise control over resources may be insignificant, since control and information are still owned by a small number of individuals; group enterprises often merge with banks and obtain a possibility of receiving a significant share of financing at the expense of excluded external enterprises; the interests of the groups can enter into a conflict with the interests of the society as a whole; economic power of the group can transform into political power, which can be used to obtain preferential treatment from politicians or to block reforms.

The development of business-groups in many countries leads to creation of business-associations – voluntary, long-term, revolving partnerships, which

contribute to exchange and expansion of business activity by expansion of information flows, enhancement of reputation penalties and reduction of expenses on settling disputable questions. Such organizations are broader in composition and more flexible in adaptation to changing environment. As a rule, the integration of enterprises into business-associations is voluntary. The functions of business-associations directly depend of development of economic systems. For example, in Russia, where market relations are being formed, these associations are specialized on spreading commercial information, while in Bolivia, where market environment is formed better, business-associations execute more complicated functions: provide business consultations to new entrepreneurs; reduce expenses on searching for necessary specialists, etc.

Corporate organization of business activity allows modelling inter-firm relations, using the properties of such an association, in particular, the following: the possibility of attracting funds through issue of securities, by accumulation of the unlimited number of investors, allowing the latter to count on certain benefit and providing them with the right to choose whether to participate or not in managing the group; facilitation in settling the problems of management by dividing the functions of control among the managerial bodies; absence of limited sphere of activity unless other is stipulated by acting legislation; employment of a rather simple mechanism of affiliation and disaffiliation, which provides vast possibilities of rotating interested individuals – the investors; application of the limited liability principle, which contributes to mitigation of risks shared by shareholders, borrowers, and other creditors [4: 77–84].

When analysing the organizational, methodological, and financial aspects of forming integrated corporate structures in Ukraine, special consideration is needed for the specifics of the legal form of corporate business and its comparability with the existing practice in other countries, including the EU. First of all, distinguished should be the corporate and the group control over economic and financial activity of enterprises.

It is known that at the heart of entrepreneurial development on the way to establishing different kinds of affiliations are the processes of incorporation. Proceeding from the specifics of legal arrangement of corporate business in different economic systems practicing combination of capital of legal and natural persons into a corporation on a share basis, it should be noted that it is characterized by keeping to the following principles: a) availability of the status of legal person registered in due course; b) principle of limited liability, that is, separation of the property of legal person from the property of shareholders; c) unlimited, in terms of time, realization of business activity; d) free transfer of securities, the carriers of the ownership right; e) centralized management that does not stipulate for assigning administrative functions to shareholders.

In B. Milner's opinion, this means that corporation is the organization (self-organization) created for protection of the interests and privileges of participants, which forms independent legal person, that is, joint-stock company [16: 305]. Such interpretation of the notion of corporation matches its definition in the



European law: corporation is a collective formation or organization recognized as a legal person, which is based on consolidation of capital (voluntary contributions) and realizes any socially important activity [5: 73].

Indeed, if the notion of corporation is founded on the legal form of the business, it would be feasible to single out the corporate form of capital with regard to which the owners have limited liability and are separated from the business they own. This would be the basis for division of corporate and non-corporate sectors. This is why not all companies, including joint-stock companies, fall under the notion of corporation. For example, V. Yevtushevskiy, V. Polonskiy, S. Bilousova, A. Bilousov view corporate partnerships as not including such companies as general partnerships and special partnerships, since they do not have clear separation of owners and managers, as well as limited liability. At the same time, they emphasize the disputability of the role of partnerships with double liability and their ascription to consolidation of capital and corporations in general [9: 16; 17: 15].

When researching the conceptual limits of the term «corporation», as I. Hrabrova notes, there are different views on the essence of this concept today. Some scientists view corporate bodies as including all commercial organizations based on sharing, other scientists consider them as including partnerships and companies, still the others refer to them only joint-stock companies. Let us assume that every position has its rationale and the right to exist, however, we can not but note that exactly the nature of the joint-stock company allows it being unconditionally identified as a corporation in the world economic and legal practice [23: 15]. This is proved by the approaches to the notion of corporation elaborated in the developed market economies. For example, in the USA, a private corporation is legally established by the founders, the number of which, as a rule, should not be less than three persons at the time of incorporation, but can decrease later. The US legislation allows for the existence of corporations, where all the stock is owned by a single person. In Japan, all incorporations of entrepreneurs (full partnership – gomei kaishya; limited partnership – goshi kaishya; joint-stock company – kabushiki kaishya), except for private enterprises, can be generally termed a «corporation» [15: 32–33, 56].

In the legislative base of Ukraine and many post-socialist countries, the notion of «corporation» has gained a specific meaning, which is essentially different from the accepted in the world practice. Thus, according to the norms of the Economic Code of Ukraine (ECU), corporation is defined as a contractual incorporation based on combination of production, scientific and commercial interests of affiliated enterprises, with delegation of certain authorities of centralized regulation of each of participating units to the administrative bodies of corporation [6: 74].

Unfortunately, this definition can hardly help to understand the essence of this form of incorporation, the authorities and the real capabilities of its participants. Firstly, «the combination of production, scientific and commercial interests of affiliated enterprises» does not specify who exactly is subject to consolidation:

is it the capital or the administrative functions? Secondly, is the administrative body of corporation the super-structure which receives the status of the legal person, or is it the very affiliation of enterprises as an integrated structure that receives this status? Thirdly, the mentioned definition does not specify the nature and the degree of dependency of the enterprises that belong to such a non-statutory affiliation. Fourthly, the economic entities of which organizational and legal forms have the right to form a corporation?

All this proves that the consolidation of enterprises of such an organizational and legal form as corporation is essentially different from the corporate enterprise, such as joint-stock company. From the afore-mentioned, we understand that the case in point is the form of affiliation of enterprises in the broad sense (from weak to strong), which is created as an economic affiliation with associated legal persons [12: 125].

If to view the alternative options of constructing contractual affiliations such as corporations, then, according to domestic legislation, they can take on the following forms:

1. The affiliated enterprises delegate certain administrative functions to a super-structure – the newly created legal person or principal enterprise selected from the group of affiliated enterprises. This structure allows its members to preserve their economic freedom.
2. The affiliated enterprises delegate certain administrative functions and transfer an insignificant share of capital to super-structure – the newly created legal person or principal enterprise. This type of combination leads of reduced freedom of member-enterprises.
3. The affiliated enterprises delegate certain administrative functions and transfer a share of capital equal to majority holding for management of super-structure – the newly created legal person or principal enterprise. The combination of this form results in the establishment of «control-subordination» type of relationships between the affiliated members and the parent company, which in its turn leads to a change of the organizational and legal form of its members (daughter enterprise).

Thus, according to current legislation of Ukraine, the affiliation of enterprises is being established in the form of corporation, the essential features of which do not comply with the standards of the doctrine of trade law applied in the developed countries of the world (USA, Great Britain, France). There, it is a general practice to divide partnerships into associations of natural persons (partnerships, limited partnership, and special partnerships) and consolidation of capital (joint-stock companies – corporations). In the USA, for example, there are two types of corporations: public – the shares of which are available for general audience, that is, the number of investors is unlimited; and private – the shares of which belong to a limited number of owners (according to US legislation – no more than 50) [5: 73].

At that, it should be noted that peculiar of the national forms of affiliating state-owned and non-state-owned enterprises are asset management and execution of certain functions for the affiliated members, which can develop into the management principles typical of the holding companies. For example, the Ukrainian state-owned corporation «Ukrzakordonnaftogazbud» (further – Corporation) combines the state-owned enterprises that construct and set operational oil and gas complexes by employing a single technological process. In accordance with Ukrainian legislation, this Corporation is a legal person functioning as a single economic structure with independent and consolidated balances, current account, foreign currency and other accounts in banks, seal and stamp, and other requisites. It is endowed with property (basic and working capital, as well as other assets, the value of which is shown in its independent balance), which belongs to it by the right to full economic management. Thus, it is the super-firm structure which is involved in realizing the economic and representative functions of the affiliated members. At that, the enterprises that belong to the Corporation preserve their rights of the legal person, but because they are state-owned enterprises, they are limited in their ability to drop out of the affiliation and to make decisions on its liquidation. The juridical autonomy of the participants means that it does not bear the joint responsibility for the liabilities of its members.

Thus, the above-mentioned form of consolidation under present Ukrainian legislation is characterized by two special features: first, the affiliation is headed by the super-firm structure in the form of legal person endowed with property under management that does not have characteristic features of corporate enterprise (joint-stock company) – a legal person of respective organizational form that consists of separate non-independent subdivisions; second, the corporation – actually functioning as a contractual, and at the same time statutory, affiliation of enterprises – does not recognize in full the principle of voluntary participation of the affiliated enterprises, which is proved by the limitations imposed on the activities of affiliated participants (combined state-owned enterprises) with regard to their right to leave the Corporation and to make decisions on its liquidation, as stipulated by the Economic Code of Ukraine (a. 118). That is, on the one hand, the members of the state-owned corporation are independent legal persons, while on the other, they are equated in their status to subdivisions of the legal person; finally, despite the limited rights of the members (the right to leave the Corporation and to make decision about its liquidation), the Corporation imposes the standards of liability typical of joint-stock companies (when the joint-stock company bears no responsibility for liabilities of its shareholders, and shareholders bear no responsibility for its liabilities).

Thus, the economic and legal analysis of the corporation shows that it is an affiliation of several legal persons – business entities that have the status of legal person, which have stable, more rigid than market, interrelations (contractual or informal) and a strategic decision-making centre, which can be the legal person. In other words, the corporation – according to current legislation of Ukraine – can be equalled to a special type of joint-stock companies, the share-

holders of which are legal persons. In general sense, such a formation is in its nature an «integrated corporate structure» (ICS) – a group of juridically and economically independent enterprises (organizations) that realize common activity on the principles of asset consolidation for the purpose of reaching a common goal (holding companies, industrial and financial groups, consortia, etc.). This is exactly the difference – from the theoretical and practical viewpoints – between the consolidated business structures based on the partnership principles and the individual, though very large, joint-stock companies. At that, it should be noted that not every ICS is a legal person or, in terms of our legislature, a corporation. There exist other versions of corporate structures – the subjects of civil law, the interests of which are represented by the specific super-firm legal persons, for example, principle and executive enterprises in industrial and financial groups and consortia.

In view of this, a corporate structure (corporation, according to current legislation), as an economic formation, can be defined as a set of business entities organized into a single system on principles of partnership or control-subordination for joint activity for the purposes of profit generation.

Concern can be regarded as a transition structure between corporate management within one legal person and corporate management within a group. Concern is the affiliation of enterprises which better satisfies the needs of integrated structures, that is, the structures where the affiliated participants have limited independence, single core of ownership, and a controlling body.

According to current legislation, concern is defined as a statutory affiliation of enterprises, as well as other organizations, on the basis of their financial dependency on one affiliated participant or a group of them, with the centralization of the functions of scientific and technological and productive development and investment, financial, external, and other activity. The members of the concern delegate to it a part of their authority, including the right to representation in relations with governmental authorities, other enterprises and organizations. The participants of the concern can simultaneously participate in another concern [6: 74].

Legal substantiation of the unified management over concern comes out from the principle of its construction – the integration of both the horizontal and vertical integration of business entities: on the one hand – there is a parent company or principal enterprise (super-firm formation), while on the other – there are daughter enterprises or enterprises dependent on the parent company or principal enterprise affiliated by contractual liabilities among participants of the business-group.

In view of this, as notes I. Hrabrova, special attention – in terms of accuracy – should be paid to the question of interrelation of the notions of «holding» and «concern». The matter concerns the definition of the holding company as a legal person in the form of joint-stock company or limited company, which owns majority holdings of other companies and executes the controlling functions with regard to them – this is the so-called pure holding. More specifically, any com-

pany, which owns the controlling packets of shares of other companies and respectively executes the functions of centralized management over a group of enterprises interconnected by means of capital [23: 17]. This principle of organization and management of integrated enterprises can be used in any form: corporations, concern, pure holding, industrial and financial group.

In conclusion, it should be acknowledged that when applying the universally accepted forms of affiliation of enterprises as groups or business-groups, we come to realize that the terms «group of enterprises» or «business-group» have not received broad recognition in the national practice. From legal standpoint, a group of enterprises is not recognized in current legislation as an independent subject of law, as a legal person, and as a subject of taxation, even though this term is used in the National Accounting Standards to designate a parent (holding) enterprise and its branch establishments, in the Law of Ukraine «About Industrial and Financial Groups in Ukraine», and in the Economic Code of Ukraine. At that, a group of enterprises is considered as an economic unity of independent enterprises, which gives grounds to define the notions of «concern» and «holding». Therefore, the integrated corporation-type formations, according to the norms of current legislation, should be viewed as a combination of enterprises established both with and without the status of legal person: a) based on principles of economic subordination and control (statutory affiliation) – «holding companies», which can de-jure obtain the status of legal person [22; 6: 56]; b) based on voluntary cooperation of economic entities (temporary contractual affiliation) – «industrial and financial groups», which do not obtain the status of legal person [10].

The mentioned differences between the national corporate legislation and, for example, the European, can be motivated only with the fact that in Ukraine its separate norms (corporate, tax, anti-monopoly, etc.) appeared only recently and reflect only the initial stage of its development. However, Ukraine's integration into the European community calls for due attention to harmonization of national corporate legislature and legislature of the EU member-countries, primarily in the sphere of regulation of the activity of the groups of companies. This does not mean that the fundamental principles of the national corporate legislature should be revised – as noted by the European legal commission in its Appeal to European Council and European Parliament titled «Modernization of Corporate Law and Improvement of Corporate Governance in the EU – the Progression Plan» as of 21.05.2003 – in the direction of increased requirements to disclosure of information on control over a public company, employment of detailed rules of conduct for a parent company, and conclusion of the contracts which due to their characteristics fall under control, etc., especially when these standards are not fully recognized by the EU member countries [13: 1–2]. However, taking into consideration a rather remote time of Ukraine's accession to the EU, the realization of the programmes of improving the investment attractiveness of Ukraine, the need for extended participation of national capital in trans-national corporations and trans-border business, and the need for limiting the use of corporate legislature for achievement of «indirect» goals of corporations predetermine the

necessity to orient national corporate legislature towards general tendencies and perspectives of development of the corporate law of the EU member countries. In this context, the things have reached the point when certain legal norms of the mentioned law should be revised. These include, for example, the norms that regulate the degree of control over subordination in holding companies depending on the qualified packet of stock and the period of parent company's holding the share of capital of the branch company [25: 76]; the norms that regulate the recognition of groups of enterprises as a legal way of doing business under condition they have «group policy» (regulation of the situations related to mitigation of conflict between the interests of the group and the interests of the affiliated enterprises); as well as the norms on the official disclosure of information about participation in pyramidal groups of companies, the structure of the group, and the relations of control within the group.

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The article was received on August 1, 2005.