

**Financial and Banking Services Market**

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**THE LAW OF THE PERMANENT
CONCENTRATION OF CAPITAL:
ECONOMIC AND LEGAL PROBLEMS****Abstract**

This paper analyses a historical aspect of the concentration process of production and capital. Based on this analysis, there are conclusions about the law of the permanent concentration of capital.

Key words:

Capital, types of production, «shadow economy», unfair competition, protectionism policy of a state.

The interdependency of the basic forms of capital, in particular, financial, industrial and intellectual ones, has achieved a level where the autonomous existence of these forms has become rather weak under the modern economic conditions. That is why, being based on the numerous positive examples, we would state that the above-mentioned forms of capital have objectively «come» to the unification and creation of the common organizational institutions, which are aimed at their regulation in some way.

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World experience of the development of economy last few decades gave many various examples of the capital concentration through the unification of capital and production. It was originated from a simple to more complicated level. In particular, from separated autonomous and small forms to the unification, mutual penetration and coalescence into huge institutional unions. It is logic of the financial capital formation and its unity with the industrial capital within the bounds of the united institutional associations according to the classic canons of the market economy. Industrial capital, as it has historically turned out, ensured the process of a detachment of new forms of capital from its structure. At first, it was the detachment of trade capital and then monetary capital, which transformed with time into financial capital. The above-mentioned self-dependent forms of capital interacted between themselves at the initial stage of their development. Later on, there began the process of mutual penetration and unification that led to the appearance of industrial and financial groups. It was organizational form of the association of industrial capital with financial one.

Thus, there was a process of capital division into forms, in particular, into industrial, financial, agrarian, as well as separation of these forms from each other. But in the framework of branch-wise capital the process of the concentration of capital continued in order to lead to the association of different forms of capital over period of time under certain conditions¹.

The practice of the industrial and financial groups' activity confirms to be the perfect form of co-operation in economy. Such co-operation is known since long time and it always been part of effective development of the economy. Very often economic studies were behind the economic transformations.

Since the prices for grain were low and cattle-breeding used to give high profits in the Rome Empire, the Old Rome agronomist Warren (116–27 B. C.) in his treatise «About the Agriculture» described the necessity of the association of two branches - farming and cattle-breeding².

Mark Thulium Cicero (107–44 B. C.) was the ideologist for the concentration of production, in particular concentration of the large farming.

In the Golden Age of the Old Roman history with the development of the craftsmanship, there appeared branch-wise associations on manufacturing of hardware in Puthiols, bronze and leaden goods in Kanui, ceramics in Arretsia, and wool in Kanuz and Mediolani. Such associations in Rome got name of «collegium».

In the Middle Ages guilds became the form of the capital unification. The guilds' regulation enclosed all stages of manufacturing and market.

¹ Костицький В. В., Економіко-правові проблеми концентрації капіталу. – Право України. – 2002. – № 3. – С. 70–75.

² Юхименко П. І., Леоненко П. М., Історія економічних учень. Навч. посіб. 3-тє вид., випр. – К.: «Знання-Прес», 2002. – С. 26.

The Ipatiyiv chronicle of the Galician-Volyn' region is the evidence of economic policy aimed at the development of handicrafts, town construction and trade in Kyiv Rus.

Further development of guilds resulted in the establishment of manufactory, which at the beginning used the guild's pretext as its cover. For instance, in XIV-XV centuries in Florence, the members of clothing guilds used to buy wool in England and then sell finished goods abroad.

The principle of the concentration of capital is the guarantee for the stimulation of the economic development if there are used the appropriate legal forms of the organization of the capital functioning. Underestimation of this principle, as well as the unjustified calls to split up the agricultural production, made by the Utopians John Lilburn (1614–1657) and Gerard Winstenley (1609–1652 «The Law of Freedom»), led to the complete failure of their attempts, aimed at realization of their project. It happened when Gerard Winstenley with friends tried to cultivate the land in the County of Surrey³

Being an obsolete form of the industrial concentration of capital, natural economy and guilds of craftsmen were separated by the capitalistic production. At the beginning, the bases for the capitalistic production were an early mercantilism and later on classical economic theory.

In the XVIII century, there appeared centralized manufactories. Starting they were created in new branches of economy. The most developed manufactories were sugar, cloth and silk production in England and the Netherlands.

Adam Smith (1723–1790 «The study of nature and reasons of the peoples' wealth») is called as «the ideologist of manufactory production». He posed again a question of morality of commercial activity; he formulated the studies on fixed and working capitals and a theory on the division of labor and money, as well as a value theory. Moreover, he proposed to cancel the governmental regulation of industry and internal trade through the introduction of excise-duty (indirect tax).

The industrial revolution, which took place in XVIII–XIX centuries in England, made this country one of the most developed countries. It changed England into a «world factory» and assisted in forming of the new branch-wise structure of economy and creation of monopolies. Later on the same processes took place in other countries.

Only in the middle of nineteenth century the industrial revolution in France was a reason of fast development in heavy industry and establishment of large the banks («Credit Mobilieu» in 1852, «Credit de Lyon» in 1865).

Fast growth of the US economy introduced the progressive methods of production (steam excavator, conveyor system). Creation of monopolies (as a new economic form) began with the development of railways and than with oil

³ История экономических учений. Ч. 1. – Изд-во Московского ун-та, 1989. – С. 47.

industry. So, 95% of oil refinement in the country⁴ was under the control of «Standard Oil» in 1897. In 1882–1906 company accumulated capital close to 1 billion US dollars.

At the same time sugar trusts and the Carnegie Steel Corporation appeared. Trusts became a specific form of the American monopolies. They were either legally independent companies or groups of joint-stock companies, which were managed by holding companies (special corporations). Although, these corporations did not produce anything, they owned the control packets of shares of other enterprises.

It is necessary to agree with the authors of the book «Economic history of capitalistic countries». They believe that trusts became such a form of the capital centralization, which made it possible to carry out unified technical and economic policy and to concentrate finances at the most important and perspective directions of economic development⁵.

As we see, the process of capital concentration has been always of a permanent character. The concentration of capital is an objective process. It is the law of economic life. «The economic laws are internally important fixed and essential links between opposite sides, the characteristics of economic phenomena and processes, the elements of economic system»⁶. Economic laws do not depend from human consciousness. Some economic laws, which have a common character, are peculiar to all modes of production. In contrast to these laws there are others, which are limited in time in the framework of several modes of production (law of value) or at the certain stages of a social production, that is the law of the planned development of economy. We think that the law of the permanent concentration of capital refers to the general economic laws. A short excursus to the past shows that capital has always been «inclined» to concentration. This process took place at all stages of the development of a goods production. The objective action of the permanent capital concentration law cannot be stopped by the appropriate State actions⁷.

Thus, the adoption of the special «anti-trusts» legislation in the USA stipulated only change of a form. Instead of trusts there began to appear concerns, which were managed by the holding companies, while the industrial monopolies began to use their excess profit as a borrowed capital. Monopolization of certain branches was supplemented with the intensive concentration of a bank capital, which began to have industry under its control. The largest banks obtained the forms of centers around which were formed financial and industrial empires.

⁴ Экономическая история капиталистических стран / Под ред. Полянского Ф. Я. и Жамина В. А. – М.: Изд-во МГУ, 1986. – С. 176.

⁵ Экономическая история капиталистических стран / Под ред. Полянского Ф. Я. и Жамина В. А. – М.: Изд-во МГУ, 1986. – С. 176.

⁶ Економічна енциклопедія. Т. I. – Тернопіль. – 2000. – С. 472.

⁷ Костицький В. В., Закон перманентної концентрації капіталу: економічна історія і українські реалії. – К. – 2003.

Problems of monopolies attract attention of the scientists. Among them are the works of R. Shtamler «Economy and Law», R. Shtoltsman «The Social Categories», and F. Oppenheimer «Theory of pure political economy».

It is worth to remind about the Ukrainian scientist M. Tuhon-Baranovs'kyi (1865–1919). Those days he was the first in Russia, who noticed the advantages of new form of economy – cartels, as the first form of industrial and financial groups. One of the most important contributions of M. Tuhon-Baranovs'kyi was the theory of economic cycles and crises, which was exposed in his book «Industrial Crises in the Modern England. Their causes and the influence on the people's life».

The reasons of crises had not been state monopoly capitalism but the dissonance of the capital allocation. Accusing the capitalism in all social troubles, V. Lenin (Ulyanov) replaced the state regulation of the private capital by the state regulation of a public capital. Thus, he changed the state into the huge monopolized owner, which manufactured production and consumer goods, distributed them through the shops system, had a control over the law implementation, etc.

The founder of the American institutionalism T. Weblen (1857–1929) was the first scientist, who proved disability of the economic liberalism and value of the social control over the economic activity. Considering the contradictions between the interests of the production development and the interests of entrepreneurs (T. Weblen called this phenomenon «dichotomy»), the scientist formulated Utopian forecasts about the transfer of power from entrepreneurs to technocrats in economy.

During that period of time, there appeared conclusions about the role of the concentration of production in economic development. In particular, it is mentioned in the works of R. Liftman («The Cartels and The Trusts»), in which he called cartels as a market phenomenon. According to him trade unions and labor units are the same monopolies as the coalitions of enterprises.

Further history confirmed much higher effectiveness of a public development, when the interests of a private capital and civil society are balanced with the help of a state regulation.

Today Canada occupies one of the first places in the world according to the concentration of production. In the early sixties of the last century, monopolies of the manufacturing industry (that made 1% of a general quantity of enterprises) manufactured 39% of gross value of the production; 28 companies held 20% of the assets for all enterprises of this branch of industry. Higher level of monopolization was observed in mining industry: 5 largest corporations ensured 63% of the value of all mined iron-ore in Canada.

The state possessed a considerable share in the industrial sector. In 1969, there were 18% of free assets of all the firms that worked in Canada.

The level of the financial capital concentration is much higher in Canada than in other countries. There are 10 private commercial banks in Canada. In the early sixties, 3 largest banks of Canada owned 70% of assets, and the largest among them («Royal Bank of Canada» and «Canadian Imperial Bank of Commerce») occupied accordingly the ninth and the eleventh places among the world largest banks.

In the second part of the twentieth century the peculiarity of the capital concentration became not only the association of the financial and industrial capital but also a break through the national borders made by the industrial and financial groups. This peculiarity is also put the creation of transnational companies, the association of the industrial, financial, scientific and labor capital, which is independent of national borders.

It's known that transnational companies (TNC) were created within the limits of the world economy functions. According to the UN agency data, in the early eighties TNC had 27 branches in the developing countries. 44.2% of these branches were owned by the USA, 22.8% – the Great Britain, 6.6% – Japan, 5.3% – France, and 4.9% – Germany.

These days quantity of people, who work at the foreign enterprises of the TNC, is about fourteen million⁸. Money invested through TNC is highly effective for the developed countries (first of all for G7, which are the capitals of TNC) as well as for the countries of the Third World. So, in 1975-1984, American corporations invested to the developing economies 22.55 billion US dollars. The profit for this period of time was 88.4 billion US dollars, where 31.6 billion US dollars of this profit again were reinvested into the Third World countries.

In 1984, foreign branches of the American TNC manufactured products for 900 billion US dollars that 2.5 times exceeds the value of goods exported from the USA⁹.

John Dunning, professor of the Redden University (the Great Britain), elaborated the constitutional basis for TNC activity. The basis of his vision is the «eclectic paradigm», which has become one of the theories of the international manufacturing.

This theory can be related to the various forms of manufacturing (resources based, import-biased, export oriented, global oriented). It also comprehends different parts of economic theory and law (capital flow, trade, and innovations). Moreover, the above-mentioned theory can be based both at the macroeconomic level (global tendency) as well as microeconomic level (interaction between firms at a branch level).

The objective action of the law of the permanent capital concentration also reveals in the Ukrainian conditions. Although, the content of the Law of Ukraine

⁸ Опришко В. Ф., Міжнародне економічне право. – К.: Либідь, 1995. – С. 53.

⁹ Примаков Е., Новые противоречия капиталистической экономики. – Правда. – 1987. – № 258. – 15 сент.

«About the Industrial and Financial Groups» is obviously reactionary¹⁰, which is more an obstacle for the concentration of capital, it did not obstruct the process of concentration and unification of capital.

At the same time, it is justified to pose the following question. Is it possible to turn down the Law of Ukraine «About the Industrial and Financial Groups in Ukraine» and to declare it invalid? From the legal point of view it is possible. It will be necessary to declare invalid an article of the Arbitrate Code of Ukraine for that. In this case the provisions of a new Civil Code of Ukraine concerning joint activity of the entrepreneurs as well as the CIS Convention on TNC may be used. At the same time, there will be moved away the contradictions between the above-mentioned Convention and the Arbitrate Code of Ukraine.

From the economic point of view and of the Ukrainian mentality, such a decision could lead to the socio-political repudiation of the idea of creation of the industrial and financial groups (IFG). However, today there is no any prospect that a new wording of the Law of Ukraine «About the Industrial and Financial Groups in Ukraine» can be passed or repealed by the Verkhovna Rada of Ukraine. It is one of the Ukrainian paradoxes we have been talking about¹¹. For instance, it was declared the all-State policy in Ukraine directed at the development of small-scale business but local state governing bodies make obstacles to this policy. There is also a decrease in manufacturing, while there is an increase in consumption of the electric power and water resources. There is a Policy of the President of Ukraine aimed at the concentration of production and at the same time we observe inability of Parliament to pass any law concerning the changes in the regulation of IFG. Nevertheless, there is a process of the concentration of capital, which goes objectively without any dependency on the above-mentioned factors. The examples of this process are following Concern «Slavutich», Concern «Praveks» as well as co-operation of «Kyivmis' kbud» with «Arkada» Bank. From the point of view of the economic patriotism, it is necessary to overcome one more contradiction, which is not only the Ukrainian paradox. Under the conditions of globalization large enterprises and industrial associations can easily become a «bag» of TNC, especially when the economy is unstable. Thus, for keeping safe the national economy it is necessary to develop small scale and medium scale businesses, which cannot be easily influenced by the TNC. Nevertheless, there is an axiom: welfare of a family in Ukraine is in the field of small-scale business and the economic strength of State (it concerns not only Ukraine but also all other countries) can be measured by the development of a large production.

Thus under the existing conditions, state as well as the economic sphere requires mutual support. It is now important for Ukraine to give attention not only to the organization of the IFG, but also to the concentration of capital as a whole,

¹⁰ Костицький В. В., Промислово-фінансові групи: вдосконалення правового регулювання. – К. – 2003. – С. 26–47.

¹¹ Look for newspapers with articles «Economy of Transition Period».

and probably, of the financial capital, because it is still beyond the power of the industrial and production capital.

The private interest of the entrepreneur aimed at making a profit as well as the economic patriotism¹² have been always the basis for economic development.

From the economic point of view, ensuring of the private interest in the economic development is the most conflict condition of the development of the market economy. At first sight, the private interest is directly connected with the economic development of a state. It is the private interest (wish for better life) forces an entrepreneur to find ways of the most effective use of the material and labor reserves, and to make a maximum profit with minimum expenses. Thus, the private interest is an impetus of the economic development. It's always important to support this interest, although sometimes it may contradict the economic interests of a state. First of all, it concerns the prohibited or illegal forms of activity, which form so called «shadow economy». Economic losses a state incurs because of «shadow economy» can be resulted not only in the losses of a state budget because of the absence of income tax, but also with the offer of «black market» goods and services. Such poor quality goods and services create an unscrupulous competition for the home producers.

The losses, which state incurs due to the «shadow economy», formed on the reduction of legal production and its restoring possibilities. It makes impossible further development of production and thus the economic growth of a state. It would be enough to remind that according to the experts' estimation the volume of the «shadow economy» is about half of a real one.

The fight against unfair competition and support of the real one (market competition) is one more important condition of the development of market milieu, which ensures stable development of a state. So, the development of the competition in Ukraine must be ensured not only by the universally recognized measures (among which the increase of quantity of manufactures occupies the main place), but also by the determined fight with the illegal activity.

While creating conditions for ensuring market price regulation, it is necessary to take into account not only the theoretical goals of this process but also the peculiarities of the economic condition on a consumer market in Ukraine. It is also necessary to take into account unbalanced character of the above-mentioned market due to the state debts on the payments in a social sphere. In particular, haste connected with the rise of prices and tariffs in the field of housing and communal services may cause a mismatch between the value of the above-mentioned services and a solvent demand of the people. In the long run it may negatively affect the economic condition of a state.

¹² Костицький В. В., Економічний патріотизм як складова національної ідеї. – К., 2003.

At last, the protectionism policy of a state must have a decisive influence on the economic growth under the conditions of transition to the market economy. This policy has to ensure the legal basis and social atmosphere to promote: effective functioning of the market system; protection of competition; effective fiscal system; effective distribution of the material and labor resources; effective crisis-proof measures for decrease of the level of unemployment and inflation; and stimulation of the economic growth.

Indeed, the economic freedom must be protected. State protectionism has to be combined with the protection of entrepreneurship and consumer rights. Several years ago Ukraine used to produce 3 million TV sets annually. Now Ukraine produces only 100 thousand TV sets.¹³ Hundreds of thousands of workplaces are lost while the consumer market is full of the imported TV sets. After the establishment of low taxes for TV sets and electronics, which is 80% in China, this country managed to fill world markets with a low-price TV sets and tape-recorders.

Surely, the concentration of production and capital as well as the monopolization of economy give rise to the possible deterioration of production under the reduction of a competition and monitoring of the labor procedure. Depending upon the above-mentioned problems, petty bourgeois' economic theories became the mouthpiece of will of the political forces, which were against a big capital and pro, a small-scale production.

Private interest in economy is directed to the enlargement of production and its concentration to the form of monopoly, association of the industrial capital with the financial one. From one side, state should support this aspiration of a capital. On the other side, state must take care of a civil society and to carry out social and economic policy taking into account the condition of all social groups.

State should exert a conclusive influence upon the process of insurance an effective foreign policy, which is of a paramount importance for Ukraine under the globalization process.

Instead of the insufficient development of the main direction of globalization, we can observe the beginning of globalization of the Ukrainian economy. It is revealed in the widening of the international trade of goods and services, international flow of capital, distribution of labor, development of the energy, informational and telecommunication systems and information, cultural integration, implementation of international standards of living, and broadening of a competitive activity. The acceleration of globalization process occurs as the result of the scientific and technological progress as well as of the improvement of the management techniques of production, and breakdown of the communist bloc.

In this regard, there is a question about the state of the Ukrainian economy at the time of its joining to a global economy. At the sessions of the Parlia-

¹³ Костицький Василь: «Для мене свобода – як два крила: економічна і політична» // Голос України. – 1996. – 16 січня.

mentary Assembly of the Council of Europe, the author of this article several times put a question about the inclusion of small and medium enterprises of Ukraine to the European and world production (including the establishment of a quota for such participation). Taking into account the conditions of stagnation and today's economic development, such co-operation would be important for the improvement of the economic situation in Ukraine. Unfortunately, the above-mentioned suggestions have been unsuccessful.

Our expectation for the prompt formation of a middle class (due to the increase of small scale and medium scale enterprises) has not come true. That is why, at present for Ukraine there is a traditional and approved way to the economic progress. It means to proceed along the path of the concentration of the industrial and financial capital, the most successful form is a formation and activity of the industrial and financial groups.

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