Господарського кодексу України. Так, підприємницька діяльність – це самостійна, ініціативна, систематична, на власний ризик господарська діяльність, що здійснюється суб’єктами господарювання (підприємцями) з метою досягнення економічних і соціальних результатів та одержання прибутку [1].

Основна ж ознака підприємництва – новаційність та здійснення виробничого процесу ані в законодавстві, ані в правовій науці до уваги не беруться.

В оптовій торгівлі цю ознаку можна розуміти як освоєння (розширення) ринків збуту, удосконалення форм вивчення кон’юнктури ринку та тенденцій його розвитку, системи просування товарів тощо.

На думку Б.І. Пугінського, ланками оптової торгівлі є, перш за все, виробники товару, що можуть реалізовувати його посередникам або напряму роздрібним організаціям. Важливими учасниками цієї діяльності є посередницькі організації, що здійснюють різноманітні операції з просування товару. Кінцева ланка оптової торгівлі – організації роздрібної торгівлі, або підприємці, що здійснюють торгівельну діяльність.

Таким чином, оптова торгівля опосередковує та організує переміщення товарної маси від виробників до роздрібної мережі.

Як наслідок, особливістю суб’єктного складу правовідносин на ринку оптової торгівлі є участь у них в якості сторін тільки організацій (підприємців), що здійснюють виробничу та торгівельну підприємницьку діяльність.

Так, В.С. Мілаш серед інших ключових ознак виділяє: 1) самостійна, від свого імені, участь у господарському обороті; 2) спрямованість діяльності як на задоволення загальноспеціальних потреб, так і «власних» господарських потреб, та (або) господарських потреб інших суб’єктів господарювання (наприклад, біржі), а також загальносуспільних потреб; 3) наявність відокремленої майнової основи господарювання [2].

Отже, суб’єктами оптової торгівлі є лише суб’єкти господарювання, відповідно суб’єкти господарських відносин, які не входять до кола суб’єктів господарювання, як то: фізичні особи, які не заре-

ЛІТЕРАТУРА

CONTROL AS A SELF-REGULATORY TOOL
OF THE CONSTRUCTION INDUSTRY
(PROBLEM SETTING)

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The report is devoted to the study of the features of the implementation of self-regulatory organizations of the control function, which is attributed by the author to the group of organizational and managerial means of self-regulation of economic activity in General and the construction industry in particular.
Keywords: self-regulatory organization, control, self-regulation of the construction industry, organizational and managerial means of self-regulation of the construction industry.

One of the main groups of means of self-regulation of the construction industry are organizational and management, which include control over the activities of members of the self-regulatory organization and the adoption of local acts of regulatory impact, the main purpose of which is the proper organization of the activities of economic entities of the construction industry by establishing its own rules, regulations, standards and restrictions for professional participants in this sphere and control over their compliance and execution.

The main tasks to be solved in this article is a study of what are the organizational and managerial means of self-regulation of the construction industry.

The analysis of the legislation of foreign countries and mechanisms of self-regulation of them is a very important stage for understanding how this mechanism should work in our country, but we can not talk about the full and categorical transfer of all the features and elements of foreign mechanisms of self-regulation to the domestic legal system, because it is unique with its inherent features, so the applicant faces the task only to adapt the properties of foreign mechanisms of self-regulation to the needs of the national legal system and to develop a new one, the unified and effective mechanism for the domestic construction industry of its self-regulation.

Various systems of control of construction activity are applied in practice of foreign countries (Germany, Finland, Australia, China, Japan, the Russian Federation, etc.), however all these States are United by one extremely important feature – in all foreign developed countries there are rigid systems of the admission of the construction organizations to the market and quality control of construction production. At the same time, the main principle is observed everywhere-control over the implementation of economic activities in the construction industry is not assigned to state regulation, but to the Institute of self-regulatory organizations. Of course, the mechanism of self-regulation of the construction industry after its development should be tested at different levels of the national economy, including in the construction sector, to be able to explore the effectiveness and quality of self-regulatory organizations in Ukraine, however, as evidenced by the positive experience of developed countries, such mechanisms have established themselves as a qualitatively new analogue of state regulation of the most important parts of the national economy.

It should be noted that in developed countries in General, the development of self-regulation of economic activities took place “from below”: in some activities, mechanisms and tools of self-regulation were formed, which were tested over a long period of time. Today, self-regulation and state regulation of the market are carried out in parallel, mutually complementing and enriching each other. Bringing the experience of the interaction of segment management and the government that can be called co-regulation. Interesting for us is the positive experience of the USA, Japan, Germany, where the mechanism of “careful management” and “careful construction” was introduced, thanks to which it became possible to identify a significant number of shortcomings in the construction industry by the American Magazine Lean Construction Journal, among the main ones were the following:
  – about 60–85 % of the time in construction is spent on all kinds of “waiting” and Troubleshooting;
  – the shortage of highly qualified specialists is growing more and more;
  – average productivity for the Builder is about 40 %;
  – low quality of products, works and services provided;
  – excessive changes in the cost and timing of work in the construction process [1].

This kind of problem is not spared and our state, and therefore we are increasingly faced with the question of how and how effectively this industry will be reformed, because the above-mentioned problems entails, including the emergence of life and health of the population, which is a potential consumer of the work performed or services rendered, and also leads to an increasing decline in one of the leading segments of the national economy.
Public authorities, which are responsible for the implementation of control in the construction industry today is no longer able to implement it effectively, because, at least, the decisions of most of them require individual control, such bodies can not physically provide. In this connection, it seems logical to borrow the experience of these States, the solution to these problems was entrusted to self-regulatory organizations, since the control that is carried out by them, acquiring features of a private-legal nature, allows to provide the fragmented control.

Of course, this kind of transformation will be extremely resource-intensive for our state and will require fundamental changes not only on the part of public authorities, but also economic entities engaged in economic activities in the construction industry. The outdated attractor of state regulation, excessive bureaucracy and corruption on the one hand entails the emergence of conformist and consumptionist moods on the other hand (business entities), since the introduction of innovations in the sector of economic activity will ultimately lead to an increase in the cost of the product, complication of the usual procedures and, possibly, a decrease in the number of business entities for their non-compliance with the established requirements and the inability to obtain admission to the market of services and works.

In the context of the current economic downturn, an important task facing our state is to improve the quality of the leading sectors of the national economy, including the construction industry.

REFERENCES