

THE LEGAL NATURE OF THE CONCEPT OF “MARKET” (ECONOMIC-LEGAL ASPECT)

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Аннотация. Доклад посвящён изучению понятия правовой природы рынка вообще и понятия товарный рынок, в частности, в том числе автором исследованы разные доктринальные подходы к трактовке этих вопросов, а также проведён основательный анализ нормативно-правовой базы, регулирующей указанную сферу.

Анотація. Доповідь присвячена вивченню поняття правової природи ринку взагалі і поняття товарний ринок, зокрема, у тому числі автором досліджені різні доктринальні підходи до трактування цих питань, а також проведено ґрунтовний аналіз нормативно-правової бази, що регулює зазначену сферу.

Key words: market, wholesale market, commercial market.

The wholesale market is a poorly researched economic and legal category. Its essence can be formed by a systematic understanding of concepts such as “market”, “commodity market”, “wholesale market”, “trade market”, “commercial activity”, “entrepreneurship”, “trade”, “trading activity”, “wholesale trade”, “consignment of goods”, in determining which we are forced to turn to the basics of economic theory, which defines of the basic principles as a doctrine.

The publicly available definition of the market is contained on the Wikipedia website, where it is stated that the market is a set of relations (acts) of purchase and sale of goods and services; a method of interaction between producers and consumers, based on a decentralized, impersonal mechanism of price signals. It constitutes a mechanism for the distribution of goods and services among members of the society through voluntary exchange [16].

In the scientific literature the market is considered in two meanings: wide and narrow. Thus, in a broad sense, the market is understood as a certain way of organizing economic life, the characteristic features of which are: the independence of the participants of the economic process;

the commercial nature of their interaction; the rivalry (competition) of the subjects; the formation of economic proportions under the influence of price dynamics and competition; prices that are formed on the basis of supply and demand, and the public economy, which operates on these principles, is called the market economy [8].

In a narrow sense, the market is understood as an institution or mechanism that brings together buyers (demand bearers) and sellers (suppliers) of individual goods and services [7]. In this aspect, the market is also considered as a mechanism of formation and movement of reproductive processes, a form of connection between production and consumption, as well as various types of commercial and economic activities through the sale of goods, capital, labor, technology, information.

The definition of the organizational aspect of the market is important in the science of economic law [6], which is a set of mandatory legal relations in the field of regulation and supervision of the activities of business entities in order to ensure appropriate conditions for commercial activities, profit, protection of property interests of participants in legal relations, favorable investment climate. Such signs mostly inherent in the markets, which activities will be settled through state institutions.

Turning to the socio-economic essence of the market, scientists determine the following features: [5]

First, this is the sphere of manifestation of certain economic relations, where the distribution of the consumed part of the social product, its implementation through the exchange of people’s income for goods;

Secondly, it is the sphere of manifestation of relations between producers and consumers of goods, between the cost and consumer value of goods;

Third, the market acts as a link between production and distribution, on the one hand, and personal consumption, on the other.

The legal content of the market in the legal literature is defined as a system of economic relations between economic entities, based on the payment of all goods and services and exchange relations. That is, the market means the whole set of structures of economic relations between economic entities on the principle of substitutability of goods and services [17]

We consider it expedient for the disclosure of the chosen research topic to discuss the market in a broad sense, taking into account the specifics of the economic sphere, to focus on the characteristics of legal relations, the which association and regulatory settlement allows us to distinguish the market as a legal phenomenon, which is the basis of wholesale trade.

Thus, first of all, the market represents a system of legal relations between the buyer and the seller regarding the transfer of ownership of goods and services regulated by act, contract, custom, mutual legal actions.

The market is a catalyst for the emergence, a means of ensuring, a form of settlement of economic trade relations in the sphere of sales, supply of goods, works, services and obtaining property benefits.

The market covers a wide range of relationships, however in the economic sector subordinated to the constitutional principles of public order and the General principles of economic management (articles 4, 5 of the economic code of Ukraine [14]).

The next step in the conceptual tools of research is to take into account the commodity component of the market, which determines the objects of its functioning.

Depending on the subject of purchase and sale it is distinguished as capital market, commodity, services and labor market, intellectual property market and the information market.

The commodity market that arouses interest for the study can be called “ Central “ market among them with the equality of the above-mentioned markets that work for it and depend on it.

According to V.V. Apopiy, in a narrow sense, market refers to the place of sale (equivalent exchange) the total amount of goods and services that is constantly produced or generated. [3]

In turn, the entire product market in the organizational aspect can be divided into two large components: retail (consumer) and wholesale (institutional) markets.

Criteria of differentiation of the commodity market into two subsystems can be called as the purpose of use of the acquired goods (personal needs, direct consumption or use in economic activity); the vector of legal relations (satisfaction of needs of the specific person or demand of market participants group) scope of use of the object of market relations

(private, internal or economic, industrial, social); subject composition of participants (with the participation of individuals or entities of collective ownership); the volume of goods and services (single, small or multiple), the frequency of market operations (single or systemic).

The last feature is not separately covered in the scientific literature, but we believe that a single purchase of a large batch of goods and its implementation can not indicate the existence of the wholesale market as such and the emergence of a wholesale seller or intermediary as a mandatory entity of wholesale market relations.

Constancy and consistency of wholesale economic activity as one of the main foundations of entrepreneurship (article 42 of the economic code of Ukraine) is also a determining criterion for differentiation of market relations systems, since the absence of at least one component excludes the possibility to include a certain sphere of activity to economic.

However, the study of the concept of “market” and “commodity market” will be incomplete without a detailed analysis of the legal regulation of this sphere.

Thus, the national legislation defines the concept of the market as business entity or its separate unit the functional responsibilities of which are the provision of services and the creation of appropriate conditions for sellers and buyers in the process of buying and selling goods at prices are formed depending on supply and demand established in the prescribed manner on the allotted land by the decision of the local Executive authority or local government. In particular, to such a definition of “market” is in the Law of Ukraine “On veterinary medicine” [11], the “Regulations of trade in the markets, approved by joint order of the Ministry of economy, Ministry of interior, State tax administration and state standard N 57/188/84/105 from 26.02.2002 [10], “the Rules of fire safety in Ukraine”, approved by MIA Order No. 470 from 06.06.2017 [9].

According to the Law of Ukraine “on wholesale markets of agricultural products, the market of agricultural products - part of the agricultural market, where the wholesale trade of agricultural products is carried out [4].

That is, the legislator, on the one hand, defines the market as a business entity, on the other - as a certain place where the conclusion and execution of transactions for the sale of certain commodity products.

Much broader and closer to the essence of the study is the concept of the market set out in the "Concept of transition of the Ukrainian SSR to a market economy", approved by the Supreme Council of the USSR 01.11.1990 [15], according to which the Ukrainian market is a system of commodity-money relations with the mechanism of free pricing, with free enterprise on the basis of economic independence, equality and competition of business entities in the struggle for the consumer.

That is, the legislative definitions of the commodity market can be divided into two groups. The first group includes definitions that determine the commodity market, focuses on the subject composition of legal relations and their spatial dimension.

For example, in the Tax code of Ukraine [13] the sphere of circulation of goods (works, services), determined on the basis of the possibility of the buyer (seller) without significant additional costs to purchase (sell) goods (works, services) in the nearest territory for the buyer (seller) is understood as the commodity market. Such a definition is also contained in the Law of Ukraine "on protection of economic competition" [11], according to which the market of goods (commodity market) is the sphere of turnover of goods (interchangeable goods), for which there is demand and supply for a certain time and within a certain territory.

These definitions are mainly contained in normative legal acts that regulate public relations, that is, those in which the state acts as a subject endowed with power and the ability to use coercion against other subjects of public relations.

The second group of definitions focuses on the object and content of legal relations. For example, according to the Law of Ukraine "on the electricity market" [2], the electricity market is a system of relations between market participants during the sale of electricity and/or ancillary services, transmission and distribution, supply of electricity to consumers.

The Law of Ukraine "on grain and grain market in Ukraine" [1] refers to the grain market as a system of commodity-money relations arising between its subjects in the process of production, storage, trade and use of grain on the principles of free competition, free choice of directions of grain sales and pricing, as well as state control over its quality and storage.

Thus, the emphasis of substantive components of legal relations arising in the markets of various goods is more inherent in private relations based on the legal equality of the parties.

Analyzing the advantages and disadvantages of the abovementioned groups of definitions, we come to the conclusion that they are not universal, but formulated in order to settle the relations arising in a particular sphere of public life.

From our point of view, it is necessary to take a more comprehensive approach to the definition of the market of goods, taking into account the broad content of this legal category, which includes not only the subjects and objects of the market, but also their content, the purpose of the acquisition and further use of material goods, their volume, signs of market legal relations that give it commercial content, means of normative regulation of the market and its legal, economic and social significance.

Therefore, from a legal point of view, the market is subject to the constitutional foundations of law and order and the general principles of management and is a system of stable, regulatory legal relations that arise between the initiative capable subjects on the transfer of ownership to property, work, services, and are designed to ensure the achievement of economic and social results.

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QUALITY MANAGEMENT IN ENTREPRENEURSHIP

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Аннотация. В статье автор анализирует управление качеством в предпринимательстве. Отмечается, что обеспечение качества и контроль качества являются двумя очень тесно связанными понятиями, и из-за их тесной

взаимосвязи они часто путаются и одно ненадлежащим образом используется в качестве замены другого.

Abstract. In the present article, the author analyzes Quality Management in Entrepreneurship. It should be noted, that Quality Assurance and Quality Control are two very closely related concepts and because of that close relationship they are often confused and one is inappropriately used as a substitute for the other.

Keywords: Quality, Total Quality Management, Quality Management, Quality Assurance, Quality Control.

Quality management is a vital part of operations in all kinds of business sectors, industrial operations and government. Given the nature of today's global economy and international competition, product and service quality is critical to the success of entrepreneurship.

Aim of the thesis is to determine the difference between quality assurance and quality control and highlight basic principles for improving quality.

According to ISO 9001:2015, quality is “the degree to which a set of inherent characteristics of an object fulfill requirements.” Simply put, quality in localization is about meeting client requirements, while also sticking to industry and language standards.

Quality as a concept has been known for years, but it only started to receive prominence in the 20th century. Following the Industrial Revolution and the rise of mass production, companies realized the need to better define and control their processes. In the 1920s, quality control came to life as a method for ensuring that requirements were met in final products. Thirty years later, quality assurance and auditing developed out of the realization that quality could be improved earlier in the process and therefore should be managed from the source. The 1980s brought the rise of total quality management (TQM) as a methodology to ensure quality through the coordination of all the processes in a company. As the movement matured and improved, it developed into what we now know as quality management [1].

Quality Assurance and Quality Control are two very closely related concepts and because of that close relationship they are often confused and one is inappropriately used as a substitute for the other [2,3].

Let's now explore them in more detail and see how they fit into the quality management methodology (figure 1.).