БУРКИНСЬКИЙ Б.В.
академік НАН України, д-р екон. наук, професор
директор
ДУ «Інститут ринку і економіко - екологічних досліджень НАНУ»
Французький бульвар, 29, Одеса, Україна, 65044
E-mail: burkinskij@nas.gov.ua
ORCID: 0000-0001-9303-0898

ЩЕРБАК А. В.
кандидат екон. наук
ст. наук. співроб.
ДУ «Інститут ринку і економіко-екологічних досліджень НАНУ»
Французький бульвар, 29, Одеса, Україна, 65044
E-mail: av.shcherbak@gmail.com
ORCID: 0000-0002-7607-5266

ТЕНДЕНЦІЇ ТА ПРОБЛЕМИ ГЛОБАЛЬНОГО РОЗВИТКУ РОЗДРІБНИХ ТОРГОВЕЛЬНИХ МЕРЕЖ

Актуальність. На відміну від окремих магазинів торговельні мережі мають значну ринкову владу. Вони використовують її, перерозподіляючи на свою користь частину доданої вартості, створеної в інших секторах. Це негативно впливає на конкурентоспроможність підприємств та робить необхідним застосування інструментів селективного регулювання ринкових процесів з боку держави. Необхідно докладно вивчати існуючий світовий досвід з метою його використання в Україні.

Мета та завдання. Метою статті є обґрунтування необхідності та шляхів здійснення державного регулювання взаємовідносин вітчизняних торговельних мереж і товаровиробників на основі аналізу сучасних тенденцій розвитку роздрібних торговельних мереж у світі, досвіду країн ЄС.

Результати. Досліджено тенденції глобального розвитку роздрібних торговельних мереж, позитивні та негативні наслідки їх динамічного зростання. З'ясовано причини виникнення, сутність та наслідки недобросовісних торгових практик у взаємовідносинах між роздрібними мережами та їх постачальниками. Проведено досвід державного регулювання діяльності роздрібних торговельних мереж, що існує у країнах ЄС. Визначено, які заходи були малоефективними, а які сприяли вирішенню існуючих проблем. Особлива увага приділена сутності Директиви ЄС 2019/633 «Про недобросовісні торгові практики у відносинах між підприємствами у ланцюгу постачання сільськогосподарських та харчових продуктів», що забороняє низку таких практик, та її імплементації у країнах-членах Співдружності. Визначено недобросовісні торгові практики, які використовують роздрібні торговельні мережі в Україні. З'ясовано, що масштаб зловживань вітчизняних мереж більший порівняно з деякими іншими країнами.

Висновки. Відновлення економіки України після війни зумовлюється формування балансу інтересів торговельних мереж та постачальників. Однак в Україні, на відміну від більшості країн Європи, відсутні законодавчі акти, спрямовані на усунення зловживань з боку торговельних мереж. Враховуючи досвід ЄС, в Україні необхідно створювати державне регулювання діяльності роздрібних торговельних мереж, що здатно забезпечити діяльність мереж більшим рівнем життя населення.

Ключові слова: роздрібні торговельні мережі, роздрібна торгівля, недобросовісні торгові практики, конкуренція

BURKYNSKYI B.V.
Academician of the National Academy of Sciences of Ukraine,
Dr. Econ. Sciences, Professor
Director
Institute of Market and Economic&Ecological Research of the
National Academy of Sciences of Ukraine
Frantsuszhskiy Boulevard, 29, Odessa, Ukraine, 65044
E-mail: burkinskij@nas.gov.ua
ORCID: 0000-0001-9303-0898
TRENDS AND PROBLEMS OF GLOBAL DEVELOPMENT OF RETAIL NETWORKS

Topicality. Unlike individual stores, retail networks have significant market power. They use it by redistributing in their favor part of the value added created in other sectors. This negatively affects the competitiveness of enterprises and makes it necessary to use tools of selective regulation of market processes by the state. It is necessary to study the existing world experience in detail to use it in Ukraine.

Aim and tasks. The aim of the article is to substantiate the need and ways of implementing state regulation of the relationship between domestic trade networks and manufacturers based on the analysis of modern trends in the development of retail networks in the world, the experience of EU countries.

Research results. Trends in global development of retail trade networks, positive and negative consequences of their dynamic growth have been studied. The causes, essence and consequences of unfair trade practices in the relationship between retail networks and their suppliers have been clarified. The experience of state regulation of the activities of retail networks existing in the EU countries is analyzed. It was determined which measures were ineffective, and which contributed to the solution of existing problems. Special attention is paid to the essence of the EU Directive 2019/633 on unfair trade practices in relationships between enterprises in the agricultural and food supply chain, which prohibits a number of such practices, and its implementation in the member states of the EU. Unfair trade practices used by retail networks in Ukraine have been identified. It was found that the scale of abuse of domestic networks is greater compared to some other countries.

Conclusion. The recovery of Ukraine's economy after the war will significantly accelerate if it is possible to balance the interests of trade networks and suppliers. However, in Ukraine, unlike most European countries, there are no legislative acts aimed at eliminating abuses by trade networks. Taking into account the experience of the EU, it is expedient to introduce state regulation of relations between trade networks and suppliers in Ukraine. The adoption of the relevant law will help increase the competitiveness of domestic enterprises and raise the standard of living of the population.

Keywords: retail networks, retail trade, unfair trading practices, competition

Problem statement and its connection with important scientific and practical tasks. Retail trade is the final link of the logistics chain in consumer goods markets. This feature of retail trade allows it to significantly influence vertically related markets. This influence has significantly increased in recent decades, which is connected with the activity of trade networks. The development of networks has led to a significant increase in efficiency, the growth of service culture in retail trade, and contributed to the slowdown of inflation. At the same time, it was accompanied by negative consequences. Retail networks, unlike individual stores, have significant market power. They use it by redistributing in their favor part of the value added created in other sectors. This has a very negative effect on the competitiveness of enterprises and makes it necessary to use tools of selective regulation of market processes. Considerable experience of state regulation of retail networks exists in EU countries. At the same time, there are no relevant legislative acts in Ukraine.

Analysis of recent publications on the problem. Trends in the development of retail networks in the world and their peculiarities in Ukraine, foreign experience of regulation of retail trade are studied in the works of domestic scientists: A. Gerasimenko, O. Kavun, V. Lisitsa, A. Martynova, H. Pyatnytska, V. Sokolovska, etc. Allocation of previously unsolved parts of the general problem. Despite a significant number of scientific works on this issue, they lack an analysis of the modern system of state regulation of EU retail networks.

Formulation of research objectives (problem statement). The purpose of the article is to substantiate the need and ways of implementing state regulation of the relationship between domestic trade networks and product manufacturers based on the analysis of modern trends in the development of retail trade networks in the world, the experience of EU countries.

An outline of the main results and their justification. The main structural elements of the real sector of the economy are commodity markets and systems of vertically related markets connected by a single technological chain.
Related markets are organically interconnected and interact with each other, forming the internal economic space, which is the basis of the reproductive cycle of the consumer value of goods (Nikishina, 2016). Effective interaction and balanced development of all elements of this system are conditions for a stable state and dynamic development of the national economy as a whole. At the same time, the violation of optimal ratios between elements, the weakening of ties, etc. leads to the occurrence of gaps in commodity and financial flows. Discontinuities between different links of the market chain, associated with the presence of a significant difference in the market power of business entities, are especially dangerous. This allows business entities operating in certain links of the chain to redistribute in their favor part of the value added created in other links. Such gaps generate a systemic negative impact on reproductive processes, accompanied by significant financial losses (Burkynskyi & Nikishina, 2021; Burkynskyi & Nikishina, 2022).

Deep gaps in commodity and financial flows exist in agro-food markets. They deepened in the second half of the 20th century. The most important reason is technological changes in retail trade, which led to the development of retail networks.

The first retail networks appeared in the USA as early as the 19th century, but network trade in leading Western countries began to develop actively in the 50s of the 20th century. This was due to the cessation of rationing of goods, increased competition in connection with the abolition or weakening of state price regulation, and an increase in the standard of living of the population. Soon, network took the leading place in retail trade. In the 80s and 90s, the largest networks achieved nationwide market coverage. They also actively created enterprises abroad.

Compared to independent business entities, retail chains have a number of advantages. Buying large batches of goods allows them to reduce prices. Networks have great potential for reducing fixed and transaction costs. This is achieved thanks to the effect of scale, rejection of the services of intermediaries, creation of own logistics centers. Retail networks organize the production of goods under their own trademarks, placing orders directly with manufacturers. They attract the most qualified specialists. The advantages of networks for consumers are the ability to purchase all the necessary products in one place, relatively low prices, and quality of goods.

The development of networks led to a significant increase in labor productivity in retail trade, and became one of the most important factors in the growth of labor productivity in the economy in general.

Deloitte Touche Tohmatsu Limited annually publishes a ranking of the 250 largest retailers. The report, published in 2022, provides data on their activities in the 2020 fiscal year (July 1, 2020 to July 1, 2021). The country of origin of 78 retail networks is the USA, 90 companies are from Europe, 61 are from Asia and the Pacific region. The list also includes 11 Latin American retailers and 10 from Africa and the Middle East (Deloitte, 2022). The data of the 10 largest companies are given in the table.

Table 1

<table>
<thead>
<tr>
<th>Rank</th>
<th>Name of company</th>
<th>Country of origin</th>
<th>Retail revenue (US$M)</th>
<th>retail revenue growth, %</th>
<th>countries of operation</th>
<th>% retail revenue from foreign operations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Wal-Mart</td>
<td>USA</td>
<td>559.2</td>
<td>6.7</td>
<td>26</td>
<td>21.9</td>
</tr>
<tr>
<td>2</td>
<td>Amazon</td>
<td>USA</td>
<td>213.6</td>
<td>34.8</td>
<td>21</td>
<td>31.7</td>
</tr>
<tr>
<td>3</td>
<td>Costco</td>
<td>USA</td>
<td>166.8</td>
<td>9.2</td>
<td>12</td>
<td>26.8</td>
</tr>
<tr>
<td>4</td>
<td>Schwarz Group</td>
<td>Germany</td>
<td>114.3</td>
<td>10</td>
<td>33</td>
<td>72</td>
</tr>
<tr>
<td>5</td>
<td>HomeDepot</td>
<td>USA</td>
<td>132.1</td>
<td>19.9</td>
<td>3</td>
<td>7.5</td>
</tr>
<tr>
<td>6</td>
<td>Kroger</td>
<td>USA</td>
<td>131.6</td>
<td>8.3</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>7</td>
<td>Walgreen</td>
<td>USA</td>
<td>117.7</td>
<td>1.5</td>
<td>9</td>
<td>8.5</td>
</tr>
<tr>
<td>8</td>
<td>Aldi</td>
<td>Germany</td>
<td>117.0</td>
<td>8.1</td>
<td>19</td>
<td>73.3</td>
</tr>
<tr>
<td>9</td>
<td>JD.com</td>
<td>China</td>
<td>94.4</td>
<td>26.7</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>10</td>
<td>Target</td>
<td>USA</td>
<td>92.4</td>
<td>19.8</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: Deloitte (2022)
The average growth rate of the retail revenue of the 10 largest networks in 2020 fin. year was 12.4%, while 250 - 5.2%. As a result, the share of the top 10 networks increased from 32.7% in 2019 to 34.6% in 2020. As can be seen from the table, the fastest growth was demonstrated by Amazon and the Chinese online retailer JD.com. This is explained by the dynamic development of online trade in the conditions of the coronavirus pandemic. 141 companies out of 250 are engaged in the sale of goods of daily demand, 32 companies sell clothes and accessories, and 57 companies sell leisure and sports goods. 20 companies are diversified.

As can be seen from the table, 7 of the 10 largest chains operate in several countries. It should be noted that a significant part of other retail networksis also expanding abroad. For example, the German company Metro (44th place in the rating) is active in 24 countries, the Finnish company Kesko (ranked 132) operates in 7 countries. The average number of countries in which 250 leading retailers operate is 10.8 (Deloitte, 2022).

The economic power of the leading retail chains significantly exceeds the power of industrial enterprises. For more than 20 years, the Wal-Mart company has been on the first place in the ranking of the largest corporations in the world by revenue, compiled by Fortune.

At the same time, the development of trade networks was accompanied by negative consequences. The number of small shops has significantly decreased, which has led to an increase in unemployment in some regions.

Porter (1980) analyzes the 5 most important factors that determine the intensity of competition in any industry. One of them is the ability of buyers to push for price reductions. M. Porter notes that they begin to play an important role in the market when they purchase in large volumes. In this regard, they are able to effectively demand price reductions, impose unfavorable contract conditions on suppliers.

In a number of countries, in order to protect small and medium-sized businesses, the state has taken measures to limit the development of large-format stores. Thus, in France in 1996, the Raffarin Act was adopted. According to it, when opening a store with an area of more than 300 m², it was necessary to obtain a special permit. Its receipt depended on the fulfillment of a number of criteria, in particular, from the impact that the opening of the store has on the level of employment and the state of the environment.

However, the positive effects of such measures were limited. At the same time, they slowed down the growth of labor productivity in retail trade, initiated a wave of mergers and acquisitions, and contributed to the expansion of networks outside the country. Therefore, later such restrictions were relaxed.

In a few EU countries it was forbidden to sell goods below cost or a certain threshold (cost plus a fixed percentage). The introduction of such measures is explained by the fact that dumping was used to push weaker competitors out of the market. However, the consequences of such regulation were also ambiguous. There were problems with the sale of surplus and goods stored in warehouses. Weakening of price competition contributed to the growth of inflation. The advertising payments of suppliers have increased, networks have become more active in the production and promotion of their trademarks.

Pointing to the ambiguous results of state regulation of the activities of retail networks, Radaev (2011), Lisitsa (2016) researchers opposed such regulation. In this regard, it is worth mentioning that at the beginning of the 20th century, the majority of economists were opponents of antimonopoly legislation, considering it an unacceptable interference in the operation of the market mechanism. The negative attitude was partly explained by the practice of applying the Sherman Act. Sanctions for price collusion contributed to the growth of concentration. The majority of those sentenced to prison were trade union activists. However, in 1914, the Clayton Act was passed, which clarified a number of antitrust provisions. In particular, labor disputes were excluded from its scope.

In the 1930s, theories of imperfect competition were developed by Chamberlin and Robinson, which served as the theoretical basis of antitrust policy. Currently, none of the economic schools opposes antitrust legislation. There are sharp disputes about the forms and methods of monitoring compliance with competition rules. Thus, under the influence of neoclassicists, there has been a trend towards liberalization of antimonopoly legislation in recent decades: restrictions on mergers have been relaxed, concerted actions are allowed in certain areas (R&D, foreign economic activity).

In modern conditions, retail markets are very far from a model of perfect competition. In France, five leading retailers control more than 85% of the retail market, in Great Britain 4 networks occupy more than 70% of the market, three leading networks in Finland share 90% of the market between them. Suppliers do not have
alternative sales channels and are often forced to agree to conditions of cooperation with networks that are extremely unfavorable for them. Under these conditions, reasoning about the inadmissibility of state intervention in the negotiation process of business entities is actually lobbying for the interests of networks. There is no true freedom of contract where there is significant inequality between the parties.

Another thing is that regulation in many cases leads to a worsening of the situation. In order to avoid another "failure of state", it is necessary that the adoption of a regulatory act be preceded by a detailed analysis of the situation, comparison of positive and negative effects, finding out whether the benefits of regulatory regulation exceed the costs associated with them, whether there is no possibility to solve existing problems in some other way, in particular through business self-regulation.

The accumulated experience led to the fact that adjustments were made to the system of state regulation of retail networks. Special attention is now being paid to the relationship between networks and their suppliers.

In the EU, these problems were discussed for a long time and in detail both at the national level and at the level of the Commonwealth. Consultations were held with interested parties. The European Commission (2013) prepared a Green Paper "Unfair trading practices in the the business-to-business food and non-food supply chain in Europe". From 2009 to 2016, the European Parliament adopted three resolutions on the problems of imbalances and abuses in the food supply chain.

During the discussion, it was concluded that there are unfair trading practices in business relations between retail networks and their suppliers. In a broad sense, unfair trade practices (hereinafter UTP) can be defined as practices that grossly deviate from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on another (European Commission,2014).

The most important manifestations of UTP:
- unjustified delays in payments for delivered goods;
- sudden rejection of contracts or unilateral change of their terms;
- transfer of commercial risks to suppliers (introduction of unconditional return of unsold goods, etc.);
- imposing services that do not represent value for suppliers.

Such practices are particularly prevalent in the food supply chain. Organizations participating in this chain also reported the following actions of retail networks:
- exerting pressure to reduce prices;
- failure to provide sufficiently detailed or clearly formulated information regarding the terms of the contract;
- coercion to participate in advertising campaigns;
- transfer of transport and storage costs to suppliers;
- collection of fees for placing goods in a prominent place in stores and other additional fees.

In a survey, conducted in March 2011, 96% of respondents in the food supply chain stated, that they had been exposed to at least one form of UTP (European Parliament, 2016). The wide spread of such practices is explained by the fact that a large part of food products are perishable, as well as the importance of small and medium-sized businesses in this area.

Large-scale redistribution of value added in favor of trade networks leads to a decrease in the income of other business entities, limiting their ability to make investments and implement innovations. Small and medium-sized businesses, including farmers, are particularly affected by this. Such a situation leads to a decrease in the competitiveness of business entities, reduces the efficiency of the entire food supply chain.

It should be noted that traditional measures of antimonopoly regulation allow only partial elimination of problems related to UTP. This is due to the structural features of retail markets. They are oligopolistic, they are operated by several trade networks competing with each other. Agreements between networks are quite rare.

European Parliament and Council (2011) adopted Directive 2011/7/EU of the l on combating late payment in commercial transactions. It states that many payments in commercial transactions are made later than agreed in the contract or stipulated in the general commercial conditions. At the same time, creditors are often not reimbursed for the costs incurred due to late payment. Late payments negatively affects the competitiveness of enterprises, therefore it is necessary to prohibit the abuse of freedom of contract to the detriment of the creditor. To this end, Member States must ensure that the payment term established in the contract does not normally exceed 60 calendar days. The creditor must have the right to interest for late payment, compensation for other costs associated with late payment. This directive...
applied to all commercial transactions, but it was retail chains that often delayed payments/

There was also an attempt to solve problems that arose in the food supply chain using business self-regulatory mechanisms. As a result of the dialogue of interested persons, the principles of good practice were formulated:

1. Agreements must be in writing and be clear, transparent and cover as many specifics of the work as possible, including rights and procedures of termination.
2. Contractual relations must be predictable and not allow for unilateral changes, unless this is specified in the contract. There should be a written process for making changes with the agreement of the parties.
3. Agreements must be complied with.
4. The parties exchange information in accordance with the legislation and do not use it to mislead counterparties.
5. The information transferred between the parties, if it is not publicly available, must remain confidential and be used only for the purpose for which it was communicated.
6. All contracting parties in the supply chain should bear their own appropriate entrepreneurial risks.
7. A contracting party shall not apply threats in order to obtain an unjustified advantage or to transfer an unjustified cost. (B2B platform, 2011).

In September 2013, the Supply Chain Initiative (SCI) was launched in the EU as a voluntary system to implement these principles. Later, national SCI platforms were established in a number of countries. Individual companies could join the Initiative if they followed the principles of good practice. SCI is governed by a Steering Group representing retailers and suppliers in the food supply chain.

Disputes between companies can be resolved through mediation or arbitration. Hundreds of companies have joined the Initiative. However, farmers' representatives chose not to join the SCI because, in their opinion, it does not provide confidentiality for economic operators making complaints, nor does it provide for independent investigations and sanctions.

In most of the EU member states, legislation was adopted aimed at eliminating abuses by trade networks. At the same time, different approaches were used. Thus, the laws of Germany and Austria required in each specific case to find out whether there was a significant economic imbalance between the parties and whether one of them abused its position to impose unfair conditions on the weaker party. However, significant difficulties arose in the application of such legislation. In order to prove whether unfair trade practices are taking place, a comprehensive investigation is required each time. For example, the court did not confirm the decision of the antimonopoly agency of Germany, adopted in 2014, about the existence of such practices in the activities of the EDEKA retail network.

Other countries, including the Czech Republic, Slovakia and Hungary, have taken a different approach. The laws they passed contained extensive lists of trade practices deemed inherently unfair and therefore illegal. The fact that the legislation of a number of Central European countries regarding UTP is stricter is explained by the greater scale of abuse in these countries, as well as the fact that they operate mainly foreign trade networks.

Thus, according to Hungarian legislation, trading companies with a net annual income of more than HUF 100 million (about EUR 400 million) have significant market power. They are prohibited from a number of abuses of such power: including unreasonable conditions in the contract; charging fees for services that are not actually required by product suppliers as a precondition for inclusion in the list of permanent suppliers; setting the sale price of goods that are not owned by the trader below the price specified in the contract for its supply; inclusion in the contract of excessive sanctions for violation of its terms, etc.

In Slovakia, between 2004 and 2013, four pieces of legislation were adopted, aimed at establishing a fair balance in business relations between food retailers and their suppliers. The last of these laws identified more than 30 unfair trade practices. It was forbidden to include them in the relevant agreements.

The existing experience was summarized in the Report of the European Commission (2016) to the European Parliament and the Council on unfair business-to-business trading practices in the food supply chain. It emphasized that legislative acts aimed at eliminating abuses by trade networks were adopted in 20 EU member states, and in 15 - in the last 5 years. National SCI platforms are actively used in Belgium and the Netherlands. At the same time, in Sweden, Estonia, Poland, Denmark, Luxembourg, there were neither relevant legislation nor national SCI platforms. However, such a law was adopted in Poland at the end of 2016.

About a third of states that have enacted UTP legislation have not had a single case in the...
past few years, and another third have investigated multiple cases. The report identified ways to improve legislation at the national level, emphasized the need for more active use of SCI, and proposed a number of measures to improve the effectiveness of the initiative. At the same time, it was emphasized that, taking into account the positive changes in the segments of the food chain, the Commission does not consider it appropriate to adopt a coordinated approach to the regulation of retail networks at the EU level. However, such a position was subjected to severe criticism.

The European Parliament’s Committee on the Internal Market and Consumer Protection highlighted that UTP is a widespread and growing problem that is causing significant damage to the EU economy and consumers. Combating such practices is complicated by inconsistencies between national UTP laws. Self-regulatory schemes used to restore market balance allow to mitigate the problem, but are not sufficient to solve it. Decisive and consistent action must be taken to eliminate UTP from the food supply chain once and for all. According to the Committee, the scale of the problem requires the adoption of EU rules that will ensure the proper functioning of markets and fair and transparent relations between all parties involved in the food supply chain. UTPs should be clearly defined and heavy punishments should be established for everyone who participates in them. This position was also supported by the Committee on Agriculture and Rural Development, which called for the adoption of EU framework legislation to protect all food suppliers (European Parliament, 2016).

European Parliament and Council (2019) adopted Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (hereinafter - the "Directive"). The purpose of the Directive is to establish a minimum list of prohibited unfair trading practices in relations between buyers and suppliers in the agricultural and food supply chain and lay down minimum rules concerning the enforcement of those prohibitions and arrangements for coordination between enforcement authorities.

The directive protects weak suppliers against strong buyers and applies to any agricultural and food supplier with a annual turnover of up to €350 million, with differentiated levels of protection provided below this threshold. This applies to farmers, producer organizations and distributors with a turnover below the threshold value. This also applies to suppliers and buyers located outside the EU, provided that one of the parties is located in the EU.

The Directive uses a tiered approach based on turnover as an indicator reflecting the different market positions of suppliers and buyers. A step-by-step approach protects the supplier from unfair trading practices by an economically strong buyer. For example, a small farmer with an annual turnover of up to 2 million euros is protected from buyers with an annual turnover of more than 2 million euros. Suppliers with an annual turnover between 2 and 10 million euros are protected from buyers whose turnover exceeds 10 million euros.

To improve the situation of farmers and small and medium-sized businesses in the food supply chain, the EU has banned 16 unfair trading practices. This Directive distinguishes between "black" and "gray" practices: black is definitely prohibited; gray practices may be permitted on the basis of a clear and comprehensible contract that has been concluded in advance.

Ten "black" trade practices:
1. Payments later than 30 days for perishable agricultural and food products.
2. Payment later than 60 days for other agri-food products.
4. Unilateral contract changes by the buyer.
5. Payments not related to a specific transaction.
6. Risk of loss and deterioration transferred to the supplier.
7. Refusal of a written confirmation of a supply agreement by the buyer, despite request of the supplier.
8. Misuse of trade secrets by the buyer.
9. Commercial retaliation by the buyer.
10. Transferring the costs of examining customer complaints to the supplier.

Six types of "gray" trade practices:
1. Return of unsold products without payment for these goods and/or without payment for their disposal.
2. Payment of the supplier for stocking, display and listing.
3. Payment of the supplier or promotion.
4. Payment of the supplier for marketing.
5. Payment of the supplier for advertising.
6. Payment of the supplier for staff of the buyer, fitting out premises.

The Directive contains provisions aimed at protecting complainants. The supplier may contact a producer organization or other organization that has a legitimate interest in representing him to file
a complaint on his behalf. The executive authority may initiate proceedings on its own initiative (for example, on the basis of anonymous reports).

The directive is binding on all 27 EU members. By implementing the Directive into national legislation, EU countries can strengthen and expand its norms. However, they cannot offer less protection than that provided for in the Directive.

European Commission (2021) published a Report on the state of transposition and implementation of Directive 2019/633. It was based on materials provided by 16 countries that at that time implemented the Directive into their legislation. 12 countries qualified the adopted acts as UTP legislation. Others have made additions to competition laws, the Commercial Code, etc. Almost all countries regulate the relationship between sellers and buyers at all stages of the food supply chain, as provided for in the Directive. Therefore, the requirements to prevent UTPs apply to all buyers of such products, including retail and processing industries. At the same time, Hungarian legislation limits its scope to retailers.

The legislation of most countries takes into account the turnover of economic entities. At the same time, in Croatia, Latvia and Sweden, its requirements apply to all buyers whose annual turnover exceeds 2 million euros. In the legislation of all countries there are lists of prohibited practices, which generally correspond to those defined in the Directive. At the same time, in many countries, some practices have been transferred from the "gray" list to the "black" list, or some practices have been added to one or another list. Hungary has a single (black) list of prohibited practices. The requirements for settlement terms in some countries also differ from those provided for in the Directive. In Bulgaria and Sweden, a single settlement period of 30 days has been introduced for all food products, and in Hungary and Slovakia it is 15 days.

Control over compliance with the legislation on UTP in 9 countries is carried out by the competition authority (in three - jointly with other authorities). In other countries, the Ministry of Agriculture (Ireland, Slovakia), the Food Market Ombudsman (Finland), etc. Unfair trading practices are punishable by fines. At the same time, in Ireland, violators are also threatened with imprisonment for up to three years.

Unfair trading practices are also actively used by domestic retail networks. The agreements concluded by them with suppliers provide for long settlement periods for the delivered products (up to 120 days), up to 35 different services (regarding the display of goods on the shelves; control over their availability in sufficient quantity in the trading hall; checking the expiration dates of products; control over aesthetic appearance of the product, etc.) without substantiating their content and price. Commercial risks are usually transferred to the suppliers (they are obliged to pick up the goods already delivered, if they are not sold before the end of the storage period or are damaged, etc.)

As it was found out above, retail networks of other countries also abuse market power, but the scale of such violations is noticeably greater in Ukraine. According to the calculations of the Antimonopoly Committee of Ukraine, the total effective margin — the difference between revenues and justified costs — of Ukrainian retailers with a predominantly food assortment was 45% on average, while the Eurocash (Poland) — 10.5%, BIM (Turkey) — 15.6%, Jeronimo Martins (Portugal, Poland) — 22.3% (Chopenko, 2015). This has an extremely negative effect on the competitiveness of domestic enterprises, leads to an increase in prices and a decrease in the income of the population.

At the same time, in Ukraine, unlike most European countries, there are no legislative acts aimed at eliminating abuses by trade networks. Institutional regulation, i.e. the adoption of a legislative act specifically devoted to this problem, is necessary to regulate the relations of trade networks with suppliers. It should be based on EU Directive 2019/633 and ensure conditions for fair competition in retail trade, protection of manufacturers from the dictates of retail networks.

**Conclusions and perspectives of further research.** In recent decades, retail networks have taken a leading role in retail trade in most countries of the world. This led to significant changes in the system of vertically adjacent markets. Unlike individual stores, retail chains have significant market power and use it to redistribute in their favor part of the value added created in other sectors. Unfair trading practices are used for this: unjustified delays in payments for delivered goods, shifting commercial risks to suppliers, imposing services that do not add value to suppliers, etc. Such practices are especially common in agri-food markets. This leads to a decrease in the incomes of other economic entities, limiting their ability to make investments, to introduce innovations and causes the need for selective regulation by the state.
Over the past 20 years, most EU member
states have adopted legislation aimed at eliminating abuses by trade networks. On April 17, 2019, the European Parliament and the Council adopted Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain. To improve the situation of farmers and small and medium-sized businesses in the food supply chain, the EU has banned 16 unfair trading practices.

Such practices in relations between retail networks and their suppliers are widespread in Ukraine. At the same time, there are no legislative acts aimed at eliminating such abuses in our country. Taking into account the experience of the EU, it is advisable to introduce state regulation of relations between retail networks and suppliers in Ukraine. Adoption of the relevant law will help increase the competitiveness of domestic enterprises and raise the standard of living of the population. This is also necessary to harmonize domestic legislation with EU legislation.

References


