



## Subjects of natural monopolies

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### ABSTRACT

The issue of legal status of the subjects of natural monopolies is one of the important problems of modern competition law. In this paper is dedicated to the analyze of the subjects of natural monopolies. Uzbek legislation on the topic is compared with the norms of legislation of other countries. Specific characteristics of these subjects are classified and defined.

### Keywords:

natural monopolies, competition, subjects of natural monopolies, entrepreneurs, business entities.

The clear determination of the legal status of the subjects of natural monopolies in legislation is the most effective way to achieve the transparency of the state regulation in the sphere.

One of the problems in many developing countries is that the central government does not initially provide an adequate level of services evenly throughout the country. Public services are relatively easily accessible only to residents of large cities, and in remote areas, central government institutions are not represented at all[1].

According to the article 3 of the Law N. 815-I of the Republic of Uzbekistan "On Natural Monopolies" (adopted on August 19, 1999), a subject of a natural monopoly is one who produces (sells) goods under the conditions of a natural monopoly.

According to that definition we can determine the following characteristics of the subjects of natural monopolies:

First, it operates under the condition of natural monopoly. It means that the government creates comfortable condition for them. Legislator establishes norms which determines the fields of natural monopolies and

there will be no competitive conditions for de jure activity.

In particular, Article 4 of the Law N. 815-I of the Republic of Uzbekistan "On Natural Monopolies" (adopted on August 19, 1999) defines which areas are regulated by the state as areas where natural monopolies operate. These are:

- transportation of oil, oil products and gas through pipelines;
- production and transportation of electric and thermal energy;
- transportation on railways taking into account the use of railway infrastructure;
- publicly available postal services;
- water pipes and sewage service;
- services of aeronautics, ports and airports.

Most of these services are in dotation of government and the quality of them is not satisfying. Governmental control on the mentioned services does not permit to the private entrepreneurs to make investment on the spheres and not all the regions of the country are provided with public utility services. Even in some cities, there is the lack of public utility services. Moreover, the country's

legislation does not permit the public sector to participate in improvement of them[2].

Natural monopoly industries are variable. Their range expands in a certain period and narrows in a certain period according on natural factors, demand for goods, market conjuncture, science and technology development and other reasons[3].

It is unprofitable for society to build and maintain the operation of overlapping railway lines, highways, canals, airports, because the costs are too high, and the effect is small[4].

As the development of the society continuously moves forward, its institutions also improve with time. At present in areas where a natural monopoly is established the very concept of economic inadequacy is extremely abstract. Therefore, it is better to reflect in the legislation regarding the transition of natural monopoly fields to competitive market conditions.

Legal regulation of the sphere should be reformed step by step. Rules and regulations which are not incorporated in one document do not sufficiently contribute efficient business (entrepreneurial) activities[5].

However, due to technological developments there exists much less natural monopoly technology nowadays[6].

The second part of the Article 2 of the Law of the Kyrgyz Republic (dated August 8, 2011) N149 "The law on Natural Monopolies in the Kyrgyz Republic" contains the following norm: it is not allowed to limit natural monopoly fields' transfer to competitive market conditions[7]."

In our opinion, it is appropriate to supplement Article 4 of the Law of the Republic of Uzbekistan "On Natural Monopolies" with the fourth part of the above content.

Secondly, natural monopolies exist only in commodity markets. Because natural monopoly is a condition in the commodity market. A subject of natural monopoly produces (realizes) goods under conditions of natural monopoly.

Thirdly, subjects of natural monopoly are can be as legal entities and as an individual entrepreneur.

The experience of the Republic of Kazakhstan witnesses that the legislation

directly states that individual entrepreneurs are also subjects of natural monopoly [8].

According to the general mindset, there is an opinion that the subjects of natural monopoly should have the status of legal entities only. However, the Uzbek legislation did not introduce a norm prohibiting the operation of an individual entrepreneur in the conditions of a natural monopoly.

In our opinion, the fact that the construction of a legal entity is more capable of operating in the conditions of a natural monopoly is the reason why emphasis is placed on legal entities in the subjectivity issue.

At present individual entrepreneurs also have the right to hire employees. However, due to the fact that operating in natural monopoly areas usually involves extensive and large-scale organizational issues, there are fewer opportunities for individual entrepreneurs to operate in this area. However, the national legislation does not directly indicate or exclude the possibility of individual entrepreneurs to operate in the fields of natural monopoly if they meet all the requirements.

Fourthly, the scope of the organizational legal form of natural monopoly subjects is not limited.

The register of natural monopoly subjects is registered according to the decree of the Antimonopoly Committee of the Republic of Uzbekistan dated October 6, 2010 N 14 "On approval of the regulation on the procedure for creating and maintaining the state register of the subjects of natural monopolies" (list number of the Ministry of Justice of the Republic of Uzbekistan 2147, 11.10.2010).

Based on the norms specified in this regulation, the subjects of natural monopolies is divided into two types based on the criterion of territoriality:

1) Subjects of natural monopoly recognized at the republican level - subjects producing (realizing) goods in the territories of two or more regions under the conditions of natural monopoly;

2) Subjects of natural monopoly recognized at the regional level - subjects producing (realizing) goods within the territory

of one region under the conditions of natural monopoly.

Subjects of natural monopoly can be divided into the following two types based on the criterion of the priority of the type of activity:

1. Subjects whose main type of activity is the production (sale) of goods under conditions of natural monopoly;

2. Subjects whose main activity is not the production (sale) of goods are included in the register based on the following conditions:

- When the final consumer of natural monopoly goods is the citizens and/or budget organizations;

- When the volume of natural monopoly goods delivered to consumers exceeds 10 percent compared to the volume of production of these goods;

- When the volume of natural monopoly goods sold to sub-subscribers is not less than 10% of the volume of purchased goods.

The legal recognition of a subject as a natural monopoly entity is its entry into the register. As long as the subject is not added to the register, it cannot be officially recognized as a subject of natural monopoly.

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