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ANTITRUST & COMPETITION LAW

On January 26, 2010 Victoria Ptashnik, the Head of the Antitrust and Competition Law Practice of Spenser & Kauffmann Law Firm, participated in the meeting of the Competition Committee of the Ukrainian Bar Association (the "Competition Committee") devoted to the concept of joint control in the enforcement practice of the Antimonopoly Committee of Ukraine (the "AMCU"). The Competition Committee was also attended by partners and lawyers of leading Ukrainian firms, in-house lawyers and representative of the AMCU.

The participants of the Competition Committee discussed enforcement problems of merger control regulation in Ukraine in the context of necessity to obtain merger clearance of the AMCU to concentration of the undertakings resulting in a change from joint to sole control (for instance, the situation wherein each of two shareholders owns 50% of the voting rights at the highest body of the company and one of them wishes to acquire 40% of the voting rights additionally from another shareholder). Although it was unanimously agreed between the participants of the Competition Committee that current competition laws and regulations do not directly resolve this problem, opinions of the participants as to necessity to obtain merger clearance to concentration resulting in a change from joint to sole control were divided.

According to Victoria Ptashnik Ukrainian competition law requires merger clearance for acquisition of a sole control over the company by shareholder previously holding a joint control over the same company together with another shareholder. Moreover, the enforcement practice of merger control in Ukraine proves the necessity to obtain respective merger clearance, despite existence of legal uncertainty in the matter at issue.

Thus, participants of the Competition Committee decided to elaborate a submission-letter to the AMCU asking the AMCU to give its clarification as to necessity to obtain merger clearance to concentration resulting in a change from joint to sole control.

BUSINESS LAW

On December 30, 2009 the Ukrainian Law "On Amendment of Certain Ukrainian Laws with view to Facilitate the Business Conditions in Ukraine" of December 15, 2009 No. 1759-VI (hereinafter referred to as "the Law") entered into force. The Law amended a series of normative acts introducing many changes into practice of individuals' and companies' activities in Ukraine.

Pursuant to Section 1 of the Law the amount of the authorized capital of a limited liability company should not be less than the equivalent of one minimum salary as

set on the date of establishment of the LLC. Please note that from January 1, 2010 until March 31, 2010 the minimum salary (and the minimum authorized capital respectively) is established in the amount of UAH 869,00. It is worth mentioning that before the Law entered into force the minimum authorized capital of a limited liability company amounted the one hundred (100) minimum salaries equivalent.

CORPORATE LAW

The Resolution of State Commission on Securities and Stock Market establishing the procedure for registration and publishing of information regarding establishment of Joint Stock Company (the "JSC") by one person or purchase of all shares of JSC by one person was adopted on 20 October 2009 was finally officially published on 29 January 2010, and thus, shall enter into force in the beginning of February.

On 20 October 2009, the State Commission on Securities and Stock Market (the "SCSSM"), on execution of the requirements of the Article 6 of the Law of Ukraine On Joint Stock Companies, adopted Resolution No. 1207 On Procedure for Registration and Publishing of Information on Establishment of Joint Stock Company by One Person or Purchase of all Shares of Joint Stock Company by One Person (the "**Resolution**"). The Resolution was finally published at the Ofitsiynyi Visnyk Ukrainy on 29 January 2010 (No. 3).

The Resolution sets the exact terms of publishing of such information by the issuer: (i) 15 days since the date of obtainment of share issue registration certificate for establishment of the JSC by one person, and (ii) 15 days since the date of entering of relevant amendments to the register of owners of registered shares or the date of crediting of the securities account of such person by shares within acquisition of all shares of the JSC by one person.

All relevant data shall be published in free form with obligatory containing of certain data. Thus, in case of establishment of the JSC by one person the following data shall be published by the share issuer at the official printed source of the SCSSM:

- (i) name of the JSC;
- (ii) EDRPOU code of the JSC;
- (iii) date of obtainment of share issue registration certificate;
- (iv) date of issuance of the title documents on shares to the founder; and
- (v) data on the founder of the JSC (name and EDRPOU code for legal entity or statement "individual" for individuals).

The following data shall be published by the share issuer at the official printed source of the SCSSM in case of acquisition of all shares of the JSC by one person:

- (i) name of the JSC;
- (ii) EDRPOU code of the JSC;
- (iii) date of acquisition of all shares of the JSC by one person (date of last acquisition of shares);

- (iv) date of entering of relevant amendments to the register of owners of registered shares or date of crediting of the securities account of such person by shares; and;
- (v) information on person which acquired all shares of the JSC (name and EDRPOU code for legal entity or statement "individual" for individuals).

The share issuer shall be responsible for non-compliance with the requirements set by the Resolution.

The Resolution shall finally allow the share issuers and their shareholders to be in compliance with the requirement set by the Article 6 of the Law of Ukraine On Joint Stock Companies, which came into force more than eight months ago.

INSURANCE AND BANKING LAW

On 19 January 2010 the State Commission for Regulation of Financial Services Markets together with the Antimonopoly Committee of Ukraine have concluded the agreement on cooperation regarding the development of positive environment for fair competition on financial services markets. Such decision was conditioned by the cooperation between certain banks and insurance companies, which forced the client into buying the insurance as a part of banking insurance programs, at the same time violating the interests of financial services consumers by means of limiting the choice of insurers. The partnership between the two state bodies may compensate lack of authority of the State Commission for Regulation of Financial Services Markets in banking segment, as long as the Antimonopoly Committee is entitled to impose the sanctions to every kind of financial institutions.

The Cabinet of Ministers of Ukraine approved Draft Law "On Introduction of Amendments to the Article 2 of the Law of Ukraine "On Insurance", which should simplify the procedure of reinsurance with non-resident reinsurers. The main amendment, which would be introduced to the law, is lifting of restrictions regarding the reinsurance with the countries, which are not members of WTO. Mostly it refers to the companies from Russia, Belarus and Kazakhstan, which have strong business connections with Ukrainian insurers. Looking back, the amendments to the Law on Insurance, which had entered into force on 16 May 2008, have established a prohibition on conducting insurance activity in Ukraine by insurers, which are registered in countries — non-members of WTO.

REAL ESTATE AND LAND

On 12th January 2010 State Committee on Land Resources of Ukraine has passed for the public discussion the Draft Standard on Classification of Lands Purpose Designation (the "**Draft Standard**"). According to the Draft Standard all categories of lands in Ukraine are divided into 17 sorted groups, at the same time there is a separate group for reserve lands, lands of reserve fund and lands of common usage.

Thus, the mentioned groups are:

- (i) agricultural lands;
- (ii) house-building lands;
- (iii) common-building lands;
- (iv) lands of natural-protection fund and other environmental purposes;
- (v) health-improving lands;
- (vi) recreational lands;
- (vii) historical and cultural lands;
- (viii) lands of forestry and services related thereto;
- (ix) water industry lands;
- (x) mining industry lands;
- (xi) refining industry lands;
- (xii) lands of transport activity;
- (xiii) lands of post and communication;
- (xiv) grid lands;
- (xv) defence lands;
- (xvi) lands of gas and water production;
- (xvii) construction lands;
- (xviii) reserve lands, lands of reserve fund and common usage.

The Draft Standard is adjusted with the Classificatory of kinds of business activity.

As of 21 January 2010 State Committee on Land Resources of Ukraine has passed for the public discussion the Draft Law "On amendments of article 134 of Land Code of Ukraine" (the "**Draft Law**"). The Draft Law suggests extending list of cases when the auction on sale of land plots or rights thereto is not conducted, in particular:

- introduction of approved investment project on agricultural lands, particularly for the extension of agricultural lands' area with the aim of organization of seeds-rotation according to the appropriate allotment project, also for the investment project concerning energy saving and energy effectiveness by means of producing of alternative sources of energy and secondary energy resources.