



Features of legal Regulation in the digital Economy

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Abstract: *This article discusses the features of legal support for the functioning of the digital economy. Some reasons for the need for modernization of legislation in the context of the development of the digital economy are highlighted. Based on international experience, approaches to legal regulation in the field of the digital economy are proposed, by ensuring such a legal regime in which innovations, on the one hand, will develop freely, and, on the other hand, will be protected from possible risks.*

Keywords : *digital economy, legal regulation, information technology, dynamic competition.*

I. INTRODUCTION

The digital economy is driving significant economic growth, and its impact now extends not only to information products or services in other areas of the economy, but also to life in a more general sense. At the same time, the scale and growth rate of the digital economy has changed the Internet and has had an impact that cannot be ignored by the government, business or industry. Researchers also note that a dynamic digital economy will ultimately force capital, labor and other factors of production to adapt to new and, as a rule, more productive economic behavior. Moreover, the lack of effective legal support for the functioning of the digital economy can lead to the fact that its potential will not be fully utilized, as well as to the emergence of other risks. The legal vacuum in the digital economy poses many challenges when technologies are used that are disruptive to traditional business models. One example of such a use of technology is the arrival of Uber in the markets, when innovations in the field of technology for smartphones have changed the entire

traditional system of taxi services, since the existing model of legal regulation of the provision of such services was not applicable in this case, in particular, in India.

The development of the digital economy also redefines the functions and strategies of behavior of public authorities and may even lead to the undermining of national sovereignty.

II. RESULTS AND DISCUSSION

As the Competition Committee of the Office of Finance and Entrepreneurship of the Organization for Economic Co-operation and Development notes, the term “digital economy” is an umbrella term for digital-oriented markets that are typically involved in the sale of information products or services through electronic commerce. The digital economy operates on a multilevel basis with separate segments associated with data transmission.

The Australian Government defines the digital economy as a global network of economic and social activities, which is provided by information and communication technologies, such as the Internet, mobile and sensor networks. The term “intelligent (smart) digital economy” is also found in the literature due to the fact that the functioning of the digital economy involves the widespread use of new technologies, including artificial intelligence technologies⁸, as well as approaches used to manage such an economy. The key characteristics of the digital economy distinguish it from the post-industrial model of recent decades; accordingly, a new regulatory model is needed to accompany economic changes.

In the scientific literature and documents of public authorities, there are various approaches to determining what exactly should be the development of legal regulation in the field of the digital economy.

The digital economy is more globalized compared to more traditional models due to its nature, therefore, the universality of legal regulation of activities in this area and the harmonization of approaches at the national and international levels are important.

At the same time, there is currently uncertainty regarding the standards applicable to the digital economy, which is exacerbated by the fragmentation of regulation due to conflicting approaches implemented in different countries. This situation creates risks to ensure the development of innovation.

The most serious structural obstacle to the development of digital business in the EU states is regulatory heterogeneity in non-digital sectors of the economy, which can make it difficult for digital businesses to compete with traditional

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industries by simply digitalizing traditional business models.

Moreover, the solution to this problem is hampered by the fact that the digital economy is not a structured system that can be resolved with the help of a “package” of several harmonized legislative reforms; by virtue of its complex nature, it combines a variety of activities, moreover, as noted earlier, the term “digital economy” can be used as a collective one. Moreover, the digital economy has not yet covered all sectors of economic activity; accordingly, legislative reform should be carried out gradually.

A 2009 Australian Government Broadband, Communications, and Digital Economy Department report on the future development of the digital economy in Australia noted that developing the digital economy in Australia required action by the state, industry, and society as a whole. The role of the state is to fill the gaps in the market, solve the problems of social inequality, protect society, promote fair and efficient operation of markets, and eliminate market problems. And the main task of the state in the development of the digital economy is to ensure that individuals, households and enterprises can use the opportunities provided by the digital economy.

Including by building or promoting the development of digital infrastructure, promoting innovation or creating a favorable legal regime. If we talk about the stages of development of legal support for the functioning of the digital economy, the first should be the analytical stage.

So, when modernizing state policy and the regulatory framework aimed at regulating the maintenance of the digital economy, it is necessary to analyze and assess the relevance and relevance of existing regulatory models, as well as the consistency and predictability of existing legislation.

Since new technologies generate new services and business models, it is necessary to determine first whether they need to be regulated in any special way, and if necessary, how.

It is necessary to develop legislation, not just aimed at regulating the functioning of the digital economy, but also at promoting innovation. Traditional models of legal regulation in the economic sphere may not take into account all the risks that may arise with the rapid development of the digital economy. The Digital Economy Commission of the International Chamber of Commerce notes that guidelines can be more effective in regulating the use of new technologies and new business models within the digital economy as compared to prescriptive rules that govern all activities in detail, since in the latter case it is impossible to provide the necessary flexibility regulation, and there are also risks of premature obsolescence of legislative approaches.

To regulate the functioning of the digital economy, an approach that is not aimed at proactive regulation based on forecasting, but an approach aimed at regulating the relevant social relations after their occurrence, taking into account all the necessary information, may be more effective.

Since the digital economy is a complex phenomenon and affects a variety of aspects of economic and other activities, it is not always possible to talk about the creation of specialized regulatory legal acts in this area.

Legal support of data protection in the digital economy The problems of legal regulation today are one of the most

complex in the digital economy. In particular, researchers note the problems of legal support for data protection, which is crucial in the use and consolidation of information.

Access to data in the digital economy has become a key factor in product development and innovation, and the collection and use of data by third parties raises many controversial issues regarding the protection of competition and the rights of individuals.

Legal Regulation of Competition in the Digital Economy

Another equally important aspect of the development of legislation in the field of the digital economy is the provision of competition. At the same time, researchers note that the problems of ensuring competition in the digital economy are becoming increasingly significant.

The rapid growth of innovations and the application of new technologies in the digital economy is sometimes ahead of traditional regulatory models, as a result of which public policy may not fully take into account the growing competition in various industries.

In addition, some existing concepts of competition are not suitable for the digital economy, in particular, due to the fact that technologically complex and rapidly changing business models and the availability of a wide range of services can make it difficult to qualify any behavior as preventing competition.

In a modern technologically complex digital economy, competition depends on efforts to maintain legal protection in accordance with intellectual property laws, and accordingly, effective antitrust regulation in this area should be based on new integrated approaches that require a more serious interaction between competition law and intellectual property law.

Dynamic competition, based on continuous cycles of innovation, development, and disruption, is of paramount importance to the digital economy.

To ensure open markets, innovation, quality and efficiency, as well as freedom of choice for consumers, effective competition must be protected from restrictions. The following are distinguished as instruments for protecting competition in a digital economy:

- ban on concluding anti-competitive agreements;
- ban on abuse of a dominant position in the market;
- control of mergers to prevent market dominance and prevent the creation of significant obstacles to effective competition.

III. CONCLUSION

Different approaches to legal regulation in the field of the digital economy, as a rule, agree that it is necessary to ensure a legal regime in which innovations, on the one hand, will develop freely, and, on the other hand, potential risks will be prevented. At the same time, one of the risks is often the impossibility of accurately predicting the path along which the development of innovations in the field of the digital economy will go, so the adopted legislation should be flexible enough and be formed taking into account as much data as possible.

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