

***THE GLOBAL DIFFUSION OF COMPETITION LAW AND POLICY - AN
EXPLORATORY WORKSHOP***

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THE ADOPTION OF COMPETITION LAW: PATTERNS OF DIFFUSION (THE CASE OF RUSSIA)

How were the choices on the scope, goals and substance of competition law made?

- The process were not so transparent and well-recorded to get reliable and easily verifiable information
- At least one thing is clear: there were no Regulatory Impact Assessments as an instrument of institutions designing for competition protection rules creation
- It is necessary to have disclaimer: we speak on particular law (in Russia – «On competition protection» since 2006) or whole body of legislation related to competition protection (sector laws, Civil Code etc.?)

Did we witness a horizontal or a vertical pattern of diffusion?

- In 90-ies of XX century – mainly vertical pattern (international financial aid for structural reforms conditionalities)
- At the beginning of XX-th century – complex combination of vertical and horizontal patterns (OECD joining and own agenda – four antimonopoly packages 2006- present)
- Widening of horizontal patterns set used (ICN, BRICS, ISCamp, Eurasian Union, etc.)

Which of diffusion patterns describes better the process of adopting a competition law?



It depends:

- On particular period
- Particular areas
- Particular policy instruments

It means: even if aggregated estimate will be vertical or horizontal, it doesn't mean on lower levels it is impossible to find quite opposite examples; the same is for different patterns of horizontal diffusion

What can one learn out of the initial process of adoption for the implementation of competition law?

- There was hard trade-off between institutional designing of competition law and time constraints when choosing shock therapy as a corner stone for reforms style (as it was in Russia in 90-ies)
- The problem of prioritization: competition vs. privatization (distributive effects of reforms dominate?)
- High risks of “cobra effect” under poor initial design of rules and mechanisms of enforcement

Can the New Institutional Economics tell something useful on questions asked?...

- Competition law diffusion is not the same thing as institutions of competition protection diffusion
- Institutions are not only formal rule or policy. They are formal and informal rule + enforcement mechanisms (sanctions + mechanisms of adaptation)
- At the moment diffusion of institutions sounds quite synonymous to import of institutions....

Can the New Institutional Economics tell something useful on questions asked?

- Import of institutions (as a rule) is not good idea for country-recipient (and even for players from donor country)
- Transplantation and cultivating of institutions is more perspective (but more costly ex ante): country specific mechanisms of enforcement and interconnectedness with informal rules (+shared beliefs)
- Interests does matter. That is why the question on coordination and distributive effects under competition law diffusion is important.

Can the New Institutional Economics tell something useful on questions asked?: summing up

- Theories of institutional changes elaborated in the NIE for study of other issues might be applied – just after some upgrade - to find answers on questions asked



Thank you!

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