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Examples of Abuse of Competition Rights in Technology Transfer Agreements

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Abstract: In today's world, technology transfer agreements play a key role in accelerating innovation and industrial development processes. However, some of these agreements can lead to abuse of competition rights, which will have negative effects on markets and economic competition in the long term. This article examines examples of abuse of competition rights in technology transfer agreements. In particular, the focus is on situations in which large companies or technology transferors use legal and contractual tools to restrict competition, prevent access to new technologies, and create barriers to innovation. The importance of this research is that many companies and governments use technology transfer agreements as a tool for growth and development, but in the presence of competitive abuses, it can lead to a decrease in competition and innovation and affect markets. This article uses an analytical-descriptive method to examine various types of competitive abuses such as monopolization, restrictions on research and development, harmful trade requirements and exclusive obligations, and identifies the shortcomings and challenges in this field by analyzing real examples. The objectives of this research include examining the impact of competitive abuses on innovation, economic growth and competition in global markets. The results of the research show that the abuse of competition rights in technology transfer agreements can limit access to new technologies, reduce competition and ultimately harm consumers and the industry.

Keywords: technology transfer agreements, competition rights, exclusive agreements, mergers.

INTRODUCTION

Technology transfer agreements play a key role in industrial, economic and scientific processes in the contemporary world. These agreements are used as a tool for transferring technologies, technical knowledge and innovations from one party to another, especially in the fields of industry, production and services. However, along with the many benefits that these agreements bring to the parties, some of them may lead to the abuse of competition rights. Abuse of competition rights in technology transfer agreements means the unfair use of legal and commercial instruments to restrict competition and prevent innovation. This type of abuse may lead to a decrease in the quality of products and services, increase prices, limit access to new technologies, and create barriers to competitors entering certain markets.

This article examines various examples of abuse of competition rights in technology transfer agreements. The main issue of the research is to identify and analyze the various ways in which companies or technology transferors restrict competition and innovation. This is of particular importance because in today's era, when global competition and continuous innovation are essential for success in international markets, abuse of competition rights can have profound negative effects on the economy and industry. Furthermore, this research emphasizes the need to be aware of these abuses and the need to enact appropriate laws and regulations to maintain healthy competition and innovation in global markets.

1-Concepts

1-1-Concept of Competition Law

The concept of competition law refers to a set of laws and regulations that aim to maintain free and fair competition in markets and prevent anti-competitive behavior. Competition law generally includes a set of principles and rules that prevent companies and businesses from restrictive and monopolistic practices that can reduce competition and, as a result, harm consumers. These laws come into play especially when companies or certain groups try to use their economic power to eliminate competition or distort the market in their favor. Competition law includes four main parts: preventing monopolies, preventing anti-competitive agreements (such as price-fixing agreements, market sharing or restrictions on production), monitoring mergers and business alliances that can reduce competition, as well as protecting consumer rights and innovation. The main objective of this area is to ensure that consumers can benefit from fair prices and high-quality products, while companies are able to compete with each other to innovate and offer new products. In this regard, competition law is particularly important to prevent abuse of market power by large companies or technology transferors in technology transfer agreements, as this may lead to the restriction of innovation and competition in markets. These laws are monitored in many countries and globally by competition authorities such as the European Competition Commission, the US Federal Trade Commission and other national and international organizations.

1-2-The concept of technology transfer agreements

The concept of technology transfer agreements refers to agreements in which one party (the transferor) allows the other party (the recipient) to exploit its technology, know-how, or innovations for the production, use, or development of specific products or services. These agreements are usually designed to facilitate the flow of technology and know-how between countries, companies, or organizations and can include aspects such as licensing of patents, transfer of new technologies, access to production processes, and research and development (R&D) collaborations.

Technology transfer agreements can be used in a variety of fields, such as manufacturing, pharmaceuticals, information technology, and even agriculture. These agreements can specifically include conditions for the use of technology in a specific region, for a limited period of time, or under specific commercial conditions. The main purpose of these agreements is to facilitate access to advanced technologies, enhance production, improve product quality, and expand markets.

In addition, technology transfer agreements can have important economic and competitive impacts. On the one hand, these agreements help companies and countries to benefit from the scientific and technical achievements of others, thereby accelerating the process of innovation and industrial development. On the other hand, if these agreements are accompanied by abuse of competition rights or exclusive conditions, they can lead to restrictions on competition, increase prices and even slow down innovation in the market. For this reason, close monitoring of these agreements by competition and legal regulatory bodies is necessary to prevent the creation of monopolies and the restriction of competition.

2 -Examples of Abuse of Competition Rights in Technology Transfer Agreements

2-1-Unnecessary Market Restrictions

2-1-1-Geographical Restrictions

Geographical restrictions are one of the factors that can significantly affect innovation and improvement in various industries. These restrictions can be caused by natural or human characteristics that prevent a company or organization from effectively or efficiently accessing resources, technologies, or new markets. These types of restrictions are usually found in technology transfer agreements, trade agreements, or even government policies. Especially in international markets, geographical restrictions can create barriers to access new technologies or to participate in joint research and development projects. These restrictions can directly or indirectly reduce competition and innovation in the market. One of the most important examples is the restrictions caused by geographical borders that prevent the free transfer of information and technology between countries. Also, geographical restrictions can prevent some countries or companies from accessing advanced resources and technologies, which can indirectly reduce competition in those markets. Ultimately, these types of restrictions can seriously slow down the development and progress process in the industry and prevent some market players from growing and innovating.

2-1-2-Restrictions on access to specific markets

Restrictions on access to specific markets are one of the important barriers to competition and innovation, which can be created in the form of trade agreements, technology transfer agreements, or exclusive strategies between companies and countries. These types of restrictions usually prevent companies or countries from freely entering new markets or using the potential available in specific markets. These restrictions may be imposed, particularly in specific industries, through instruments such as trade restrictions, export and import regulations, or specific intellectual property rights laws.

One common way of imposing restrictions is through exclusive contracts or agreements that directly or indirectly prevent competitors from entering certain markets. For example, manufacturers or technology owners may agree to allow only a specific company in a specific geographic area to access certain products or technologies, thereby restricting competitors from accessing that market. This can seriously limit competition in that market and prevent new innovations from entering.

Restrictions on access to certain markets can also arise from government policies or legal regulations. For example, some countries may prevent the acceptance of certain products or technologies from other countries for political or economic reasons, or restrict certain markets for reasons such as protecting domestic industries or national security. These types of barriers, especially in global markets, can lead to market fragmentation and reduced global competition. Ultimately, these types of restrictions can reduce innovation. When a company or country cannot enter new markets or use new technologies, this can stop or slow down the innovation process in that industry or region. Also, restrictions on access to specific markets can reduce competition in existing markets, because competitors may not be able to freely enter and compete in the market.

In general, restrictions on access to specific markets can have significant negative effects on economic growth, competition, and innovation in various industries. Therefore, eliminating or reducing these restrictions, especially at the global level, can help increase competition, improve the quality of products and services, and facilitate access to new technologies. 2-1-3-Long time constraints

Long time constraints are one of the important barriers to innovation and improvement that can be found in technology transfer contracts and other commercial agreements. These types of constraints usually indirectly hinder competition and the development of new innovations in markets. When contracts or commercial agreements set long time constraints on the use of technologies or access to new products, they can prevent companies from effectively using new technologies and reduce the dynamics of competition in the market.

One of the most common cases of long time constraints is in technology transfer contracts, which may restrict the ownership or use of technologies for a long period of time. For example, if a company is denied access to new technologies or their updates for several years, this can prevent companies from continuously exploiting the latest innovations, thereby limiting competition and innovation in that industry. Such restrictions can create serious problems for smaller companies or new innovators in the market, as they will not be able to use new technologies or updates due to time constraints. Long time constraints can also have negative effects, especially in international markets. When technology transfer contracts or trade agreements are only valid for a long period and access to new technologies or their updates is delayed, different markets may be deprived of global technical advances and healthy competition at the global level may be prevented. These types of restrictions can also lead to the creation of monopolies in the hands of certain companies that are able to access new technologies, which can reduce the diversity of products and services in the market.

2-1-4-Harmful trade requirements

Harmful trade requirements are one of the most important obstacles to healthy competition and innovation in the market. These requirements are usually presented in the form of commercial contracts, agreements, or specific commercial conditions that indirectly restrict competition. Harmful trade requirements are mainly known as conditions that not only restrict competition in the market, but can also directly or indirectly affect the ability of companies to innovate, improve processes, or produce new products. These types of requirements can be applied in different forms in different markets and different industries. For example, when companies or technology owners impose special conditions in their contracts that prevent competitive development or innovation by other parties. These requirements can include things like creating a monopoly, preventing the use of similar technologies, or even price and trade restrictions that indirectly restrict competition.

2-1-5-Exclusivity obligations Exclusivity obligations are one of the most important features in commercial and technology transfer agreements that can have negative effects on competition, innovation, and access to technologies. In exclusivity obligations, one party to the agreement, usually the company that owns the technology or product, obliges the other party to the agreement to deal only with that party and to refrain from selling or transferring the products or technologies to other competitors or other parties. These types of obligations are typically seen in franchise agreements, exclusive sales agreements, or specific commercial agreements.

Exclusivity obligations are usually created in order for companies to have greater control over the market and prevent competitors from accessing certain technologies or products. These conditions can take many forms, including requiring sales only through a specific distributor, restricting the use of certain technologies to only one company, or even prohibiting competitors from using similar or available technologies.

These types of obligations can seriously reduce competition in the market by preventing competitors or new companies from entering certain markets. Also, exclusive obligations can indirectly hinder innovation. When only one company or a specific group exploits new technologies, other companies may not be able to compete with them, indirectly limiting the possibility of developing new technologies.

Finally, exclusive obligations can lead to the creation of a monopoly in the market, which increases prices, reduces product variety, and reduces competition in the market. Therefore, close monitoring and review of these commitments by competition authorities is essential to ensure that these types of commitments do not unfairly restrict competition and do not harm innovation and access to technologies..

2-2-Restrictions on Innovation and Improvement

2-2-1- Restrictions on Research and Development (R&D)

Restrictions on research and development (R&D) are one of the most important examples of abuse of competition rights in technology transfer agreements, which can have significant negative effects on innovation and technical progress in various industries. In this type of restriction, companies may create conditions through technology transfer agreements that prevent independent research and development or improvement of new technologies by other parties. These types of restrictions usually end up in favor of technology transferors and may slow down the innovation process and prevent healthy competition in markets. One of the common methods that technology transferors use to restrict research and development in technology transfer agreements is to prohibit the recipient party from conducting research and development (R&D) on technologies similar to or related to the transferred technology. For example, the transferor may stipulate in the contract that the recipient is not allowed to independently research or develop similar technologies in similar areas or using its own technologies. This restriction can significantly hinder innovation in the industry. In many cases, technology transfer agreements can be designed to limit access to updates or newer versions of the technology. For example, the transferor may only allow the recipient to use a specific version of the technology and prevent access to more up-to-date and advanced versions. This type of restriction can prevent the recipient from taking advantage of new technological advances and innovations and force the recipient to use older and less efficient versions. In some technology transfer agreements, the transferor may stipulate that the recipient only uses the transferred technology and is prohibited from independent research and development in that area. In this way, the recipient will no longer have an incentive to innovate or improve existing technologies, and all R&D initiatives must be carried out through the transferor. When companies are not able to freely conduct R&D or access new technologies, the pace of innovation in the industry slows down. This can cause the industry to lag behind new developments and technological achievements, and new competitors or smaller companies cannot quickly access new technologies. Restricting independent R&D can lead to the creation of a monopoly in the hands of companies that transfer technology. When companies are not able to independently innovate or access new technologies, the competitive market is destroyed, which can lead to the loss of consumers and a decrease in healthy competition in the market. When the recipient party is not allowed to conduct independent R&D, this can lead to greater dependence on foreign technologies. In these circumstances, countries or companies may not be able to strengthen their domestic R&D capacities and remain dependent on foreign technologies, which can weaken the potential for industrial and technological growth in the long term. In many cases, companies can indirectly limit access to new information and technical knowledge for competitors or even smaller companies through technology transfer agreements. This restriction on access to new information can prevent progress in the industry and not update technical knowledge in that area. Restrictions on R&D are one of the important ways of abusing competition rights in technology transfer agreements, which can seriously hinder progress and innovation in various industries. These types of restrictions are not only detrimental to competition and innovation in the market, but can also lead to the creation of monopolies in the market, reducing product quality and increasing prices. Therefore, careful monitoring of technology transfer agreements is essential to ensure that such restrictions do not unfairly restrict competition and contribute to the healthy and sustainable development of the market.

2-2-2- Restrictive royalties and access to new technologies

Restrictive royalties and access to new technologies are one of the important challenges in the field of competition law, especially when it comes to technology transfer agreements. Patents allow technology owners to prevent others from using, producing, and selling their inventions. At the same time, these royalties can be used as a tool to restrict access to new technologies and prevent free competition in the market. When technology transferors grant patents to the other party, they impose certain conditions that limit access to new technologies or updated versions, which can have negative effects on innovation and competition in the market. These types of restrictions can be especially problematic when a new technology is available, but competitors or other companies are denied access to it due to legal issues.

When technology transfer agreements prevent the recipient from accessing newer versions of the technology, this can prevent the technology from being updated and improved at the market level. For example, the transferor may only allow the recipient to use an older version of the technology and refuse to make further updates. This can reduce competition and innovation in the market because the recipient will not be able to benefit from new developments. Some transferors may set up agreements that prohibit the recipient from using similar or related technologies for research and development (R&D). Such restrictions can prevent companies from innovating and developing independently on new technologies or more advanced technical developments. It can also reduce competition in the market because only some companies will have access to new technologies. In some technology transfer agreements, the transferring party may stipulate that the receiving party shall only use the transferred technology and shall be prohibited from independent research and development in that area. In this way, the receiving party will no longer have an incentive to innovate or improve existing technologies, and all research and development initiatives must be carried out by the transferring party. When companies are unable to freely conduct research and development or access new technologies, the pace of innovation in the industry slows down. This can cause the industry to lag behind new developments and technological achievements, and new competitors or smaller companies cannot quickly access new technologies.

Restricting independent research and development can lead to the creation of a monopoly in the hands of the companies transferring the technology. When companies are unable to independently innovate or access new technologies, a competitive market is destroyed, which can lead to the loss of consumers and a reduction in healthy competition in the market. When the recipient party is not allowed to conduct independent research and development, this can lead to greater dependence on foreign technologies. In such circumstances, countries or companies may not be able to strengthen their domestic research and development capacities and remain dependent on foreign technologies, which can weaken the potential for industrial and technological growth in the long term. In many cases, companies can indirectly limit access to new information and technical knowledge for competitors or even smaller companies through technology transfer agreements. This restriction on access to new information can prevent progress in the industry and prevent technical knowledge from being updated in that area. Limited royalties and access to new technologies can seriously harm competition and innovation in the market. When companies use these types of restrictions, not only is competition reduced, but companies are also deprived of new achievements and technical improvements. These conditions create monopolies, reduce quality and technological progress, and harm consumers. Therefore, careful and transparent monitoring of technology transfer agreements and intellectual property rights laws is of paramount importance to ensure that these restrictions do not unfairly restrict competition and contribute to market development and innovation. 2-2-3- Restrictions on the use of technical knowledge

Restrictions on the use of technical knowledge are one of the main restrictions on innovation and improvement that can seriously hinder technical progress and the creation of new innovations in various industries in technology transfer agreements, especially in the form of intellectual property rights, such as patents or confidentiality agreements. These types of restrictions, especially when strategically imposed through contracts, can have a significant negative impact on competition and innovation in the market. One of the most common restrictions on the use of technical knowledge is when technology transfer agreements prohibit the recipient party from using technologies similar to or related to the transferred technology. This type of restriction can prevent the recipient from developing and using new innovations and prevent him from using new experiences or achievements to improve his processes or products. In this case, the receiving party may be forced to continue to use the same technology or know-how exclusively and may not be able to improve it. In many cases, technology transfer agreements can be designed to limit access to updates or newer versions of the technology. For example, the transferor may only allow the receiving party to use a specific version of the technology and prevent access to more up-to-date and advanced versions. This type of restriction can prevent the receiving party from taking advantage of new technological advances and innovations and force the recipient to use older, less efficient versions. Some technology transfer agreements may prohibit companies from developing their own technologies in-house. This usually occurs when the technology transferor stipulates that the receiving party will only use the transferred technology and will prevent independent development or research in similar or related areas. In this situation, the recipient may no longer have the incentive to conduct independent research and development and may not fully utilize its research capabilities. When companies are unable to conduct research and development freely or access new technologies, the pace of innovation in the industry slows down. This can cause the industry to lag behind new developments and technological achievements, and new competitors or smaller companies cannot quickly access new technologies. Restricting independent research and development can lead to the creation of a monopoly in the hands of companies that transfer technology. When companies are unable to independently innovate or access new technologies, the competitive market is destroyed, which can lead to the loss of consumers and a decrease in healthy competition in the market. When the recipient party is not allowed to conduct independent research and development, this can lead to greater dependence on foreign technologies. In these circumstances, countries or companies may not be able to strengthen their domestic R&D capacities and remain dependent on foreign technologies, which can weaken the potential for industrial and technological growth in the long term. In many cases, companies can indirectly limit access to new information and technical knowledge for competitors or even smaller companies through technology transfer agreements. This restriction on access to new information can prevent progress in the industry and the lack of updating of technical knowledge in that area.

Restrictions on the use of technical knowledge, as one of the main constraints on innovation and improvement, can seriously reduce competition and innovation in markets. When access to new technologies or updates is limited, this not only reduces the quality of products and services, but also significantly reduces competition in the market. Therefore, monitoring technology transfer agreements and examining the conditions related to access to new technologies is essential to maintain healthy competition and progress in various industries. 2-2-4- Exclusive agreements

Exclusive agreements are one of the most important restrictions on innovation and improvement that can seriously negatively affect market competition and technical progress. These types of agreements are usually observed in technology transfer, product sales, or business collaboration agreements. In these agreements, one of the parties (especially large companies or manufacturers) allows only one or more specific parties to use a specific product, technology, or service, and these restrictions cause competition in the market to be reduced and the innovation process to encounter problems.

Exclusive agreements are usually implemented in such a way that the transferor or owner of the technology allows only one party or a specific group to use its technology or product. These agreements can exist in various forms, including exclusive sales, distribution, or patent agreements. For example, in some cases, the transferor may impose conditions that only a specific company can use the technology or produce the product and that these restrictions do not apply to other competitors or smaller companies. This type of agreement can reduce competition in the market, especially in innovative markets. One of the main effects of exclusive agreements is to reduce competition in the market. When only one company or group of companies uses a particular technology or product, competitors cannot enter the market and use this technology. This can reduce the incentive for companies to innovate, especially in markets where innovation and competition are very important. Because in monopolistic conditions, there is no competitive pressure to improve products and develop new technologies. When only one or a few companies use a particular technology, other competitors or even consumers are denied access to that technology. This restriction on access to new technologies can hinder progress in the industry and slow down innovation in that particular area. In sensitive industries such as pharmaceuticals, information technology or automotive, such restrictions can prevent the development of new products and the improvement of existing technologies.

In some cases, exclusive agreements cause a company to become dependent on a particular technology and cannot freely use new or updated technologies. This dependence can prevent companies from competing with other industry players and, as a result, lag behind competitors in terms of technology and innovation. This may also lead to increased costs and reduced quality in the industry. When competition in the market disappears, the incentive to innovate and develop new technologies decreases. In exclusive agreements, the parties to the agreement may be forced to rely only on transferred and existing technologies, preventing independent research and development and improvement. This can lead to a reduction in product diversity and a slowdown in technical progress in the market. Exclusive agreements in technology transfer agreements and other areas can have a significant negative impact on innovation and improvement in various industries. These types of agreements can indirectly restrict competition and create barriers to access to new technologies. Also, market monopoly can lead to a reduction in the incentive for companies to innovate and improve. Therefore, careful and transparent monitoring of these types of agreements is necessary to prevent them from restricting competition and innovation and to ensure that markets benefit from technological development and progress.

2-2-5- Commercial requirements that restrict innovation

Commercial requirements that restrict innovation are one of the most important challenges in competition law and technology transfer law. These requirements are usually imposed in the form of commercial contracts, sales conditions, or internal company policies to restrict innovation in markets. These types of requirements can seriously harm competition and innovation, especially in exclusive agreements or when a company or group of companies indirectly restricts the ability to access new technologies or create independent innovations.

Commercial obligations typically involve conditions in which companies or parties to a contract are required to comply with certain conditions. These conditions can include requiring products to be sold at a certain price, restricting the use of certain technologies, or even preventing independent research and development by other parties. These types of obligations can appear in commercial contracts in several different ways, including exclusive agreements. In many cases, companies can enter into agreements that prohibit one party from conducting independent research and development or using similar technologies. These types of agreements prevent the receiving parties from innovating based on new technical knowledge and technologies and are forced to use the same technologies that were transferred. This can lead to a slowdown in the innovation process in various industries. In technology transfer or product sales agreements, pricing requirements may be imposed that hinder competition and innovation in the market. For example, the manufacturer or owner of the technology may require the recipient to sell products or services only at a certain price or to limit trade discounts. Such requirements can hinder free and fair competition and negatively affect the innovation process in the market. Some trade requirements may deprive companies of access to technological updates or newer versions of the transferred technology. Such requirements can prevent the recipient from taking advantage of new advances in technology, thereby limiting innovation in that industry. Some trade agreements may include restrictive requirements that limit research and development collaborations. These requirements can prevent companies from freely participating in research projects and slow down the pace of innovation and progress in various industries. Some technology transfer agreements contain anti-competitive conditions that indirectly prevent competition, such as requiring a monopoly on the use of technology or limiting the ability of competitors to access or improve on similar technology. Such requirements can lead to markets being deprived of competition and new innovations. Such requirements can reduce competition and innovation both directly and indirectly. Their first effect is to prevent competitors from entering the market and to limit access to new technologies. This makes companies less motivated to develop new products and improve existing technologies, as there is no competition to pressure prices or improve quality. These conditions can slow down the process of technological progress in the industry and create monopolies that benefit larger companies. As a result, product quality decreases and prices rise uncompetitively. Ultimately, these requirements can cause companies to not fully utilize their research and development capabilities and become dependent on existing technologies. This dependence can hinder innovation and long-term growth in the market and lead to a reduction in the diversity of products and services in the market. Trade requirements that restrict innovation can seriously affect competition and progress in various industries. These types of requirements are usually imposed with the aim of preserving monopolies or reducing competition in markets, but they can have negative effects on innovation, product quality, and consumer access to new technologies. Therefore, monitoring such trade requirements and technology transfer agreements is essential to maintain healthy competition and support innovation. 2-3- Exclusive agreements Exclusive agreements in technology transfer agreements are among the cases that can seriously question the rights of competition and limit competition, innovation and progress in the markets. These agreements are formed when one party to the agreement, usually the technology transferor, grants exclusive rights to use technology, technical knowledge or specific products to the other party to the agreement, namely the technology recipient. These types of agreements can significantly reduce competition in certain markets and prevent the progress and development of various industries.

In some of these agreements, the technology transferor may allow only one party to use a particular technology. This permission may be limited to a specific geographical area or for a certain period of time. In this situation, only one company will benefit from this technology and competitors cannot enter the market or use this technology. These restrictions can indirectly lead to the creation of a monopoly in the market and the reduction of competition. In some other agreements, only one company is allowed to produce and sell products based on this technology, and the other party cannot compete. These types of agreements also reduce competition and restrict the market. Also, exclusive agreements can be structured in such a way that only one party is allowed to use the technology in a specific geographical area and competitors are denied access to it. In this case, competition in some markets will be significantly limited.

The main effect of these agreements on competition is that they reduce competition in the market. When a company is able to use a certain technology and there is no competition in that market, the company has no incentive to improve the quality of its products or reduce prices. As a result, competition in that market is eliminated and consumers will benefit from fewer options to choose from. Another negative effect of monopoly agreements is the prevention of innovation and improvement. When only one company uses a particular technology and there is no competition in the market, that company will not have an incentive to develop new products or improve its technology. For this reason, innovation in the industry decreases and the market is deprived of new and improved products.

Raising prices is another negative effect of monopoly agreements. When competition in a market decreases, monopolies will be able to set prices above the competitive level. This will force consumers to pay higher prices, which will be to their detriment. In some cases, these agreements limit access to new technologies. When a monopolist completely dominates a particular technology and competitors are unable to use it, it may become difficult or impossible for other companies to access new technologies. This can slow down the process of innovation in the industry and prevent new and improved products from entering the market. Exclusive agreements in technology transfer agreements can seriously reduce competition, limit innovation and increase prices. This situation is not only harmful to consumers but also to industrial development and technological progress. Therefore, close monitoring and control of such agreements by competition authorities and regulatory bodies is essential. Competition laws in most countries, especially in the European Union and the United States, specifically identify and combat such agreements and may annul or impose fines on them if their negative effects are observed. Such monitoring prevents the creation of unnecessary monopolies and distortions of competition and ensures healthy competition and innovation in the markets. 2.4- Using patents as a competitive tool

The use of patents as a competitive tool is one example of the abuse of competition rights in technology transfer agreements, which can have widespread negative effects on competition and innovation in markets. Patents are typically designed to support innovation and encourage research and development, but in certain circumstances and if misused, they can act as a tool to restrict competition, prevent access to new technologies, and hinder industry progress. One of the most common abuses is when patent owners use these rights to create a monopoly in the market. In this case, by owning certain patents, companies are able to prevent competitors from producing, selling, or using the relevant technologies, which limits competition in the market and increases the control of the patent-holding companies over the market. In this way, competitors are denied access to new or similar technologies and cannot compete freely in the market.

Another method of patent abuse is the strategic use of a set of patents to prevent competition in the market, which is called "bundling patents" or "stacking patents". In this approach, a company or group of companies obtains a set of patents in a specific field and then strategically uses these patents to prevent competitors from entering the market or developing new technologies. In such situations, companies with more patents can force competitors to pay high prices for using existing technologies or even refrain from developing new technologies. This creates barriers to entry for competitors and creates a monopoly on certain technologies. In other cases, technology transferors may grant limited permission to the other party to use the technology or require the other party to use the technology only within a specific framework. In this situation, if the party transferring the patent or technology decides to limit access to newer technologies or to exclude them from competitors, it can reduce competition and innovation in the market. This will slow down the process of innovation and progress in the industry, because only one company will have access to advanced technologies and competitors will be excluded. Using patents as a tool to prevent competition in the market is another form of abuse of these rights. When a company uses its patents as a competitive tool, it may try to use its patents to prevent competitors from entering the market. This can be done by threatening to sue for patent infringement or by imposing trade restrictions on competitors. In these situations, instead of competing fairly, companies use their patents as a means of pressure to force competitors to accept unfair terms or pay higher prices. This situation can seriously reduce competition in the market and prevent other companies from entering or competing in the market. The use of patents in the form of “commercial forcing” or “compensatory agreements” is another form of abuse. In these situations, technology transferors may require the other party to purchase other products or services that they offer exclusively in addition to using the patent. This situation can create additional barriers for competitors and force them to pay for additional products or services that they do not need. These types of “compensatory agreements” can limit competition in the market and end up in the favor of the transferor.

Misuse of patents as a competitive tool can have a significant negative impact on market competition and innovation. Reduced competition is one of the most important consequences of this type of abuse. When only one company is able to use a particular technology and there is no competition in that market, the company will have no incentive to improve product quality or reduce prices. In addition, this situation will limit access to new technologies for competitors and ultimately reduce the variety of products and services in the market. Also, improper use of patents can lead to a decrease in innovation in the industry. When only one company has access to a technology and competitors cannot use it, there is no incentive to create new innovations and improve products in the market. This deprives the market of technical advances and new products. Another effect of patent abuse is an increase in prices in the market. When competition is limited and only one company exploits a particular technology, that company will be able to charge higher prices because there will be no competition to pressure prices. As a result, consumers will have to pay more for similar products and will have fewer options to choose from. The misuse of patents as a competitive tool can lead to barriers to entry for new companies. Companies that hold multiple patents can use them strategically to prevent competitors from entering the market. This can create serious problems for smaller or new entrants that do not have the resources to buy royalties from patent holders. As a result, these companies cannot enter the market competitively, and ultimately, the market is deprived of healthy competition and new innovations. Therefore, monitoring the use of patents in technology transfer agreements is essential to prevent potential abuses and maintain competition and innovation in the market.

2.5- Non-competitive pricing arrangements

The examination of non-competitive pricing arrangements in technology transfer agreements is of great importance because these types of arrangements can have far-reaching effects on competition in markets, innovation and consumer interests. When companies establish pricing arrangements in technology transfer agreements that prevent fair and free competition, this can lead to the creation of monopolistic or quasi-monopolistic conditions that directly affect the competitive process and market functioning.

These arrangements can manifest themselves in several different ways. For example, setting minimum prices, agreeing to the same pricing in different markets, or making agreements to prevent trade discounts can reduce competition, increase prices and harm consumers. In markets with more intense competition, these types of arrangements may prevent competitors from entering the market and limit access to products and services at reasonable prices.

In technology transfer agreements, when parties agree to sell their technology or know-how only at certain prices or to keep prices at a certain level, this can indirectly harm competition in the market and reduce the bargaining power of smaller parties. Such agreements can also reduce the incentive for innovation and product improvement in the industry because companies do not have to compete on price to maintain their market position.

In addition, non-competitive pricing arrangements in technology transfer agreements can create barriers to entry for competitors. Particularly in new and growing industries, companies with monopoly power can use fixed prices to prevent competitors or new players from entering the market. This can lead to a reduction in diversity and innovation in the market, ultimately to the detriment of consumers and overall economic growth.

As a result, it is important to examine non-competitive pricing arrangements in technology transfer agreements because these types of arrangements can lead to a reduction in competition and innovation and change market conditions in a way that benefits larger and more powerful companies. This issue is also important under international and national competition laws because many countries around the world have enacted antitrust and competition laws to prevent such arrangements in order to ensure healthy competition in the market and consumer rights.

2.5.1- Agreements to set minimum prices

Agreements to set minimum prices are one example of non-competitive pricing arrangements that can have significant negative effects on competition in the market. In these types of agreements, the parties to the agreement jointly or by one party alone determine the minimum price that should be set for products or services. Such agreements are usually made to maintain prices at a high level or to prevent competitive discounts that directly or indirectly limit competition and raise prices. Agreements to set minimum prices are usually made formally or informally between manufacturers, distributors and other market players. These agreements may include conditions that require sellers or distributors to sell their goods or services at a minimum price. Some characteristics of this type of agreement include manufacturer-level agreements, which usually occur when manufacturers agree with their distributors or vendors to sell a product only at a certain price or a predetermined minimum price. These agreements can be used to prevent deep discounts or price competition between vendors or distributors. Distributor-level agreements In these types of agreements, manufacturers may require their distributors to supply products to consumers at a certain price. This may include price adjustments to prevent discounts or price competition.

Consumer-level agreements In some cases, these types of agreements may even affect consumers, especially in monopolistic markets where they can indirectly reduce competition. One of the main effects of these types of agreements is to increase prices in the market. When minimum prices are set, other sellers cannot lower their prices to attract customers. This can be particularly detrimental to consumers because competition to lower prices or offer discounts is eliminated. Minimum prices, especially when they are set in markets with limited competition, can reduce choice and access to products at reasonable prices. In such situations, consumers will be forced to pay higher prices for similar or even identical goods, which is directly to their detriment. When price competition is limited and prices are kept high in the market, the incentive to innovate and improve products is reduced. Companies do not need to innovate to maintain their market share because they know that there is no price competition. This can lead to a slowdown in the innovation process and technological advances in the market. In the retail and consumer goods industry, one of the most common cases of minimum price agreements is observed, especially in the distribution of goods such as household appliances, clothing and electronics. For example, in some industries, manufacturers require their dealers and distributors to sell goods only at certain prices in order to prevent deep discounts and ensure that the market remains at a certain level. At the global level, some antitrust laws, such as the EU or the US competition law, recognize minimum price agreements as a violation of competition rights and restrict them. The European Union Competition Commission has in some cases imposed heavy fines on companies that have set minimum prices. Agreements to fix minimum prices are usually considered an infringement because they reduce competition in the market, increase prices and harm consumers. Such agreements can lead to markets being deprived of fair and healthy competition and affect the long-term interests of consumers. Therefore, regulatory bodies and competition authorities at the international and national levels take such anti-competitive agreements and arrangements seriously to ensure that competition is maintained in the markets and that consumers benefit from the benefits of competition.

2.5.2- Agreements to set the same prices in different markets

2.5.3- Establishment of exclusive pricing agreements

2.5.4- Limitation on trade discounts

2.6- Events in line with mergers and alliances

Events in line with mergers and alliances are one of the cases that can be considered as abuse of competition rights in technology transfer agreements. These types of actions occur when companies, by using technology transfer and related agreements, indirectly or directly lead to the creation of monopolistic positions or the reduction of competition in the market. Mergers and alliances, especially when carried out with the aim of restricting competition in the market or gaining monopoly power in an industry, can lead to serious harm to competition and innovation.

Mergers and alliances are processes in which two or more companies combine or cooperate to achieve common business objectives. These measures can be used as strategic tools, especially in the field of technology transfer or the purchase and sale of patents. The main purpose of these types of alliances or mergers is usually to reduce competition, establish market dominance, and increase bargaining power against competitors. In technology transfer agreements, these types of alliances or mergers can be structured in such a way that one of the parties to the agreement, by transferring its technology or intellectual property, restricts access to certain technologies and technical knowledge to larger companies or industrial groups, thus fostering monopolization. In these situations, existing technologies are used to create alliances that enable larger companies to eliminate competitors from the competition field or force them to accept certain conditions that benefit the large groups. One of the most important consequences of mergers and alliances is the reduction of competition in the market.

When companies merge or strategically collaborate, especially in a particular industry, the number of competitors in the market decreases. This reduction in competition can allow the merged or aligned companies to exploit their position to further control the market, thereby jeopardizing free competition. Mergers and alliances can create monopolies, especially in certain industries. If these processes are carried out in order to transfer specific technologies, the merging or aligned parties may unfairly restrict access to markets or technologies, thereby gaining dominance over other competitors. This monopolization can increase prices and reduce the variety of products and services in the market. When mergers and alliances reduce competition, companies usually have less incentive to innovate and improve products. This is because in competitive conditions, companies must constantly innovate to maintain their position in the market. But when competition in the market decreases, this incentive disappears, and companies may focus only on maintaining their monopoly position rather than developing and improving products. In some alliances or mergers, access to new technologies may be limited. For example, when a large company acquires access to certain patents and technologies by buying or merging with other companies, it may make these technologies unavailable to competitors. This can slow down the development and improvement of technology in the industry and prevent access to innovations. Mergers and alliances can create barriers to entry for competitors, especially in new or growing industries. If larger groups gain dominant market power through the transfer of their technology and technical assets, smaller and newer companies may be unable to enter the market and compete with them. This can inhibit market dynamism and growth and significantly reduce competitive diversity. In situations where mergers and alliances lead to the creation of monopolies, larger companies will be able to control prices. This control over prices is usually to the detriment of consumers, as they are forced to buy products at higher prices and are no longer able to choose from several competing suppliers or products. In such situations, the market is indirectly driven towards higher prices and more difficult trading conditions for consumers. Finally, mergers and alliances in technology transfer agreements can seriously harm competition in the market and create anti-competitive monopolies. These processes can not only increase prices and reduce the variety of products and services, but can also directly or indirectly prevent competitors from entering the market and reduce innovation. Careful and transparent monitoring of these types of mergers and alliances is essential to ensure that competition in the market is maintained and potential abuses are prevented.

CONCLUSION

The abuse of competition rights in technology transfer agreements is one of the complex and challenging issues in competition law that can have serious negative effects on competition, innovation and access to technology in markets. Technology transfer agreements, which are typically concluded between companies and governments to exchange technical knowledge and new technologies, can become an important tool for industrial and economic progress. However, the abuse of these agreements can significantly restrict competition in the market and prevent competitors from accessing new and advanced technologies. This is especially important in industries where innovation and access to new technologies play a fundamental role in growth and development.

One of the clearest examples of the abuse of competition rights in technology transfer agreements is price fixing. In this type of abuse, companies illegally agree to keep prices at a certain level, often above the competitive level. These types of agreements usually occur in markets where technology transfer can directly affect pricing and consumer costs. Price fixing forces consumers to pay unfair prices, while these prices should naturally be reduced by competition in the market. In addition, such behavior may prevent competitors from entering the market, as high prices can be economically unjustified and lead to a monopoly. Market sharing is another example of abuse of competition law that can be observed in some technology transfer agreements. In this case, companies or parties to the agreement agree to divide geographic markets or customers among themselves, and neither party allows competition in different parts of the market. This type of market division reduces competition in different market segments and leaves consumers in each geographic area or for each specific group of customers with only one source of access to technologies and products. This not only reduces competition, but may also lead to higher prices and lower product quality.

Exclusive restrictions on the use of technology are another example of abuse of competition rights in technology transfer agreements. In many agreements, the parties agree that only one company or a specific group can use the transferred technologies. These types of restrictions can lead to a monopoly in the production and supply of certain products and deprive competitors of access to these technologies. In these circumstances, other companies may not be able to benefit from innovations or improvements in production processes, and as a result, competition is significantly reduced. Especially in markets where new and advanced technologies can help innovation and reduce costs, such restrictions hinder the growth and development of competitive markets.

Abuse of a dominant position is also a common example of abuse of competition rights in technology transfer agreements. When a company or party to the agreement has a dominant position in the market, it may use this position to impose unfair or anti-competitive conditions. For example, a company may use its position to demand more onerous payment terms from the other party or create barriers to providing technology to smaller companies or competitors. This type of abuse of a dominant position can lead to reduced access to innovative technologies, increased costs and reduced competition in the market.

As a result, abuse of competition rights in technology transfer agreements not only reduces competition in the market, but can also seriously harm the interests of consumers. Despite these challenges, careful and comprehensive supervision of technology transfer agreements should be applied to prevent such behavior. Regulatory authorities, in particular the European Competition Commission, should carefully scrutinise technology transfer agreements and ensure that none of the agreements lead to a reduction in competition or harm the market. It is also necessary for competition rules and regulations to be continuously updated to deal with new challenges in the field of competition and innovation.

In general, establishing an effective regulatory system and strict enforcement of competition rules can help prevent the abuse of competition rights in technology transfer agreements and ensure healthy competition, innovation and equal access to advanced technologies. In this regard, international cooperation and exchange of experiences between different regulatory bodies are of particular importance, in order to ultimately protect the interests of consumers and competition in global markets.

REFERENCES

[1] Arora, A., Fosfuri, A., & Gambardella, A. (2007). Patents and the market for technology. *Intellectual Property, Growth and Innovation*, 63-81. Emerald Group Publishing. https://www.emerald.com

[2] Bainbridge, S. M. (1990). Exclusive merger agreements and lock-ups in negotiated corporate acquisitions. *Minnesota Law Review*, 75(4), 933-1014. HeinOnline.

[3] Calic, G., Shevchenko, A., Ghasemaghaei, M., & others. (2020). From sustainability constraints to innovation: Enhancing innovation by simultaneously attending to

sustainability and commercial imperatives. *Journal of Strategic and International Studies*, 13(2), 45-67. Emerald Group Publishing. https://www.emerald.com

[4] Cremona, M. (1982). The doctrine of exclusivity and the position of mixed agreements in the external relations of the European Community. *Oxford Journal of Legal Studies*, 2(1), 1-28. HeinOnline.

[5] Frenkel, A. (2003). Barriers and limitations in the development of industrial innovation in the region. *European Planning Studies*, 11(4), 421-439. Taylor & Francis. https://www.tandfonline.com

[6] García-Perez, A., & Ayres, R. (2010). Wikifailure: The limitations of technology for knowledge sharing. *Electronic Journal of Knowledge Management*, 8(3), 287-296. https://academic-publishing.org

[7] Hubbard, W. (2013). The competitive advantage of weak patents. *BCL Review*, 54(2), 417-444. HeinOnline.

[8] Joo, J., & Lee, S. M. (2009). Adoption of the Semantic Web for overcoming technical limitations of knowledge management systems. *Expert Systems with Applications*, 36(3), 6969-6975. Elsevier. https://www.journals.elsevier.com/expert-systems-with-applications

[9] Keyes, M., & Marshall, B. A. (2015). Jurisdiction agreements: Exclusive, optional, and asymmetrical. *Journal of Private International Law*, 11(2), 255-275. Taylor & Francis. https://www.tandfonline.com

[10] Kaplow, L. (2011). On the meaning of horizontal agreements in competition law. *California Law Review*, 99(5), 1073-1135. HeinOnline.

[11] Kash, D. E., & Kingston, W. (2001). Patents in a world of complex technologies. *Science and Public Policy*, 28(2), 87-99. https://academic.oup.com

[12] Melamed, A. D. (2005). Exclusive dealing agreements and other exclusionary conduct—Are there unifying principles? *Antitrust Law Journal*, 72(1), 1-45. HeinOnline.

[13] Narula, R. (2004). R&D collaboration by SMEs: New opportunities and limitations in the face of globalization. *Technovation*, 24(12), 911-922. Elsevier. https://www.journals.elsevier.com/technovation

[14] Pickering, J. F., & Matthews, D. (2000). Managing patents for competitive advantage. *Journal of General Management*, 25(3), 1-22. https://journals.sagepub.com

[15] Rogers, E. M., Carayannis, E. G., & Kurihara, K. (1998). Cooperative research and development agreements (CRADAs) as technology transfer mechanisms. *R&D Management*, 28(3), 289–303. Wiley Online Library. https://doi.org/10.1111/1467-9310.00112

[16] Sobot, S. S. F. (2024). Minimum and fixed resale prices in vertical agreements in competition law of the European Union. *Zbornik Radova*, 67(2), 45-61. HeinOnline.

[17] Tarek, A. (2023). Mergers and acquisitions: Analysing antitrust implications and regulatory compliance. Available at SSRN 4518461. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4518461

[18] Whish, R., & Bailey, D. (2021). *Competition law* (9th ed.). Oxford University Press. https://www.amazon.com

[19] Wich, R., & Bailey, D. (2021). *Competition law* (9th ed.). Oxford University Press. https://www.amazon.com

[20] Martínez-Zarzoso, I., & Chelala, S. (2021). Trade agreements and international technology transfer. *Review of World Economics*, 157(4), 633–660. Springer. https://doi.org/10.1007/s10290-021-00413-2

[21] Martínez-Zarzoso, I., & Chelala, S. (2021). Trade agreements and international technology transfer. *Review of World Economics*, 157(4), 633–660. Springer. https://doi.org/10.1007/s10290-021-00413-2