

NEW STATE AID LAW IN UKRAINE: Opportunities and Challenges

Seminar On The New Ukrainian Law Directly Derived from EU Law

OCTOBER 3, 2017
Radisson Blu Hotel

SPEAKERS: Jacques Derenne
Oleksandr Aleksyeyenko

SheppardMullin

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Marchenko Davenych (Kyiv, Ukraine) and **Sheppard, Mullin, Richter & Hampton LLP** (Brussels, Belgium) would like to invite you to attend a seminar on the new State Aid Law with leading experts in the field. The Seminar will be held on **October 3, 2017, from 9:00 to 13:00 at Radisson Blu Hotel, Kyiv** (22, Yaroslaviv Val St).

Background to the seminar

The new State Aid Law adopted pursuant to Ukraine's obligations under the EU-Ukraine Association Agreement entered into force on 2 August 2017. Since the adoption of the legislation in 2014, the Ukrainian government and the Antimonopoly Committee of Ukraine (AMCU), which is competent for State aid enforcement in Ukraine, have been developing legislation, monitoring Ukrainian measures that may constitute State aid and training governmental officials to prepare for the enforcement of the new Ukrainian State aid legal framework.

State aid is a very broad concept. Direct budget subsidies, State guarantees, tax exemptions and deferrals, writing-off debts by the State, State capital injections, and many other similar selective Ukrainian State measures, using public resources, may constitute State aid. New Ukrainian legislation provides number of obligations for State aid providers and beneficiaries which all of them should be clearly aware of. Companies should review their position vis-à-vis risks (as beneficiaries) and opportunities (as competitors of beneficiaries) arising from the new legal framework. The powers and obligations of Ukrainian courts should also be fully used in this new context.

This seminar will provide you with the answers to the following questions:

- What State aid is;
- How to comply with State aid rules: risks and business opportunities;
- How to use State aid rules to control and challenge Ukrainian State action;
- How to use State aid rules to challenge competitors on the market;
- What distinct and complementary roles the AMCU and Ukrainian courts have.

SPEAKERS:

The **EU State aid law** by **Jacques Derenne**
Partner, Brussels and Paris bars, Sheppard Mullin (Brussels)
Professor of State aid law (University of Liège & Brussels School of Competition)

The **Ukrainian perspective and moderation** by **Oleksandr Aleksyeyenko**
Partner, Marchenko Davenych

The **Ukrainian perspective** by **Anna Artemenko [TBC]**
State commissioner of the Antimonopoly Committee of Ukraine

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AGENDA

- 8:45 - 9:20 Registration and Welcome Coffee
- 9:20 - 9:25 **Introduction** – Oleksandr Aleksyeyenko
- 9:25 - 9:35 **Rationale of State aid control** – Jacques Derenne
- 9:35 - 10:05 **Notion of State aid under EU law** – Jacques Derenne
Cumulative criteria of the notion of aid: undertaking, advantage, selective, transfer of State resources, imputable to the State, (potential) distortion of competition and affectation of trade between EU Member States
- 10:05 - 10:35 **State aid regulations and practices in Ukraine** – Anna Artemenko [TBC]
Current status and prospects: insight on the negotiations and the economic/political context of the EU-Ukraine Association Agreement; Ukrainian principles of State aid law
- 10:35 - 10:45 **Q&A Session**
- 10:45 - 11:15 **COFFEE BREAK**
- 11:15 - 11:35 **State aid procedure (EU and Ukrainian levels)** – Jacques Derenne & Oleksandr Aleksyeyenko
- 11:35 - 12:25 **Role of national courts in State aid control** – Jacques Derenne & Oleksandr Aleksyeyenko
- 12:25 - 12:45 **Recommendations to aid beneficiaries and third parties/competitors** – Oleksandr Aleksyeyenko
- 12:45 - 13:00 **Q&A Session**

***Simultaneous interpretation in Ukrainian and English will be provided.**

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Biographies of the speakers

Jacques Derenne is a Partner at *Sheppard, Mullin, Richter & Hampton LLP*, Brussels. He is Global Co-Practice Group Leader of the Antitrust and Competition Group of Sheppard Mullin. Jacques is a member of the Brussels and Paris Bars and a Professor at the *University of Liège* and the *Brussels School of Competition*. Jacques Derenne has 30 years of competition law experience in all areas (mergers, cartels, abuses of dominance and State aid), in EU regulatory and related competition law issues in a variety of regulated sectors (such as energy, postal services, transport, telecoms). Jacques regularly appears at competition hearings before the European Commission, and pleads cases before the EU courts, national competition authorities, the Belgian and French courts and various regulatory bodies.

Jacques' State aid experience spans three decades, during which time he has acted for beneficiaries, competitors and Member States before the European Commission, EU courts and national courts. Jacques co-directed and co-authored studies for the European Commission on the enforcement of State aid rules at the national level (2006 and 2009), which contributed to the Commission's Recovery and Enforcement Notices in 2007 and 2009 respectively. He co-edited a book on the *Enforcement of EU State aid law at national level - 2010 - Reports from the 27 Member States* (Lexion, October 2010), and has written quarterly comments on State aid case law in the journal *Concurrences* since 2004 (together with EU officials). Jacques Derenne is a founding member of the *Global Competition Law Centre* (College of Europe, Scientific Council and Executive Committee). He graduated from the *University of Liège* (Belgium, 1987) and from the *College of Europe* (Bruges, 1988).

Oleksandr Aleksyeyenko is a Partner at Marchenko Danevych, Head of Antitrust and Competition Practice. He is admitted to the Kyiv Oblast Bar. Oleksandr is a member of Public Council with the Antimonopoly Committee of Ukraine, UBA Competition Committee Council, IBA Antitrust Committee and Antimonopoly Working Group with the American Chamber of Commerce in Ukraine. Oleksandr Aleksyeyenko specializes in Antitrust & Competition and Intellectual Property with a focus on merger clearances, cartels, abuse of dominance, unfair competition, procurement, compliance and state aid. Oleksandr has been for over a decade providing legal support on various antitrust and competition matters to leading international and Ukrainian companies. Mr. Aleksyeyenko is often quoted by mass media when it comes to issues related to antitrust and competition in Ukraine.

Oleksandr advised clients on a few Ukrainian landmark antitrust cases, including representation of a group of leading market players in investigation and further one-of-a-kind antitrust litigation. The litigation was connected with granting a clearance by Ukrainian antitrust authorities to the multinational corporation for getting control over Ukrainian manufacturing assets. The case included litigation against Ukrainian antitrust authorities on invalidation of the merger clearance and further litigation on invalidation of the respective M&A transaction. Oleksandr is recommended in Antitrust and Competition by Chambers & Partners, Best Lawyers, Ukrainian Law Firms. A Handbook for Foreign Clients and Yurydychna Gazeta Clients Choice Awards.