



IMPROVING REGULATION BY  
ESTABLISHING  
PARTNERSHIP BETWEEN  
GOVERNMENT AND BUSINESS



May 2017

## BRDO INTELLIGENCE FACTS, OPINIONS, ANALYTICS



**Olena Shuliak**  
Construction  
Sector Head

### EVER WONDERED WHY UKRAINE HAS SO MANY NOTARIES?



Do you live in Ukraine and need to find a notary or a pharmacy? Likely, it won't take more than 5 minutes to find both. Ukraine, and Kyiv, in particular, is known for having notaries and pharmacies on every step. While we have not yet analyzed the situation with pharmacies, BRDO looked closely at notaries to try to understand why this profession is considered to be so attractive and profitable.

In 2016, an army of 5508 private notaries (each of whom usually has several assistants) notarized 356,054 real estate contracts and 163, 139 land plot contracts. The number of transactions is significant for the Ukrainian economy because the price for notarization services is not market-based. According to an outdated decree of the President (but still effective!), private notaries may not charge less than 1% from the contract price. Such a minimum price could hardly be reasonable. To illustrate, during the privatization of the Kryvorizhstal factory, a contract between Ukraine and Mittal Steel was notarized for a fee of about 50 mln USD, which was about 2.5% of the initial price of the factory itself.

BRDO believes that market-based pricing is more appropriate for both notaries and their clients (although, many notaries disagree). Our initiative to cancel the minimum price was supported by the Cabinet of Ministers of Ukraine in December last year. To date, nothing has changed. The President's office decided to keep the old decree in effect without adequate justification. Hopefully, this situation will change soon. More details [here](#).



**Denis Malyska**  
Deputy Head

### THE GOOD, THE BAD AND THE UGLY: UKRAINIAN MEDICAL TREATMENT PROTOCOLS



The Ministry of Health - our long-term and reliable partner in creating better regulation in Ukraine challenged us to address the problem of outdated and unjustified procedures for medical treatment (so-called 'medical protocols'). Created long ago and in the context of vested interests and corruption, Ukrainian medical protocols rarely work for the public good.

Recently, a policy decision was made to allow doctors to use treatment procedures adopted in Western countries and approved by the Ministry of Health. Hopefully, this decision will allow medical practitioners (at least the forward-thinking ones) to apply state-of-the-art procedures and guidelines.

In most cases, the application of international treatment procedures will be subject to the prior informed consent of the patient.

However, the adoption and implementation of this reform meets significant resistance from stakeholders interested in keeping their monopoly and the existing ambiguous procedures for local medical protocols. Read more on this reform [here](#).



**Oleksii Orzhel**  
Energy Sector Head

### NEW ELECTRICITY MARKET: MISSION IMPOSSIBLE?



In April 2017, Ukrainian Parliament adopted the draft law №4493 on Electricity Market of Ukraine. No doubt, this is an important step to build a competitive electricity market and implement the Third Energy Package. In the best-case scenario, this will lead to more competitive price and better services. In the long run, the new model designed according to European standards could facilitate integration of the Ukrainian market into the European one. Additionally, it could attract new investors to the industry which is now monopolized either by inefficient state-owned electricity generators (Energoatom, Centerenergo, Ukrhydro which collectively cover 70% of the market), or by private company (DTEK) which owns 70% of all thermal power plants – a segment of the electricity market which is going to dictate the market price for a huge number of SMEs and households.

However, a successful implementation of the future new market relies on too many assumptions. The first is that cross-subsiding (currently 45.8 bln. UAH) is expected somehow to disappear before the new market becomes operational. The second is that someone must pay and, most probably, these will not be the strongest players on the market. Thus, the prices for consumers (except for big ones who will be able to conclude direct contracts with cheap generators) are expected to rise significantly.

BRDO believes that due to the mentioned issues the new market has high risks to follow the destiny of the law #663 on the Foundations of the Functioning of the Electricity Market of Ukraine which was never implemented.

On the bright side, the adopted law has certain provisions outside of the new model of the market, including those governing connection procedures and improving incentives for renewables. Hopefully this part of the law won't face any significant hurdles. More data available [here](#).



**Oleksandr Kubrakov**  
IT and Telecom  
Sector Head

### RECORDING EQUIPMENT vs. INTELLECTUAL PROPERTY PROTECTION



In line with leading international practices, Ukraine established a rule per which all importers of recording equipment need to pay compensation for the potential violation of intellectual property rights by the users of such equipment. The private copying levy is imposed on 33 types of devices, including TVs, mobile phones, tablets, flash memory cards, hard drives and so on.

Unfortunately, in Ukraine, these payments seem to create more problems than benefits.

The first problem is a complete lack of transparency in the distribution of payments. The levy is collected by two so-called 'authorized collective management organizations' (CMOs). In theory, these CMOs should distribute the money among authors/artists whose intellectual property is sought to be protected by the levy measure. However, no one except for the management of these two CMOs knows how the list of eligible authors is created, how the money is distributed among them, who gets the funds and when.

The second problem is the procedure for collecting the levy. The wording of the list of the equipment, on which the levy is imposed, is too vague. There are many disputes as to what equipment is covered by the levy. Moreover, for inexplicable reasons, the Security Service of Ukraine (SSU) sees itself as an agency authorized to supervise payments by importers.

At the request of the Ministry of Economic Development and Trade, BRDO is developing appropriate solutions to this issue. Find out more on this topic [here](#).



**Andriy Zablotskyi**  
Food&Agriculture  
Sector Head

### WHO WILL GET UKRAINIAN TIMBER?



The times when countries protected their producers and markets merely by trade barriers are long gone. Now they prefer measures intended to protect the environment or health, which, of course, only accidentally and unintentionally could distort trade.

To protect its forests, Ukraine imposed a moratorium on the export of certain types of timber. What are the consequences of this approach and is it effective? What are the issues relating to the regulation of the timber industry? BRDO decided to take a closer look at these issues to find out what is really going on. The findings are somewhat depressing.

In Ukraine, nearly 3.18 million cubic meters of timber are in the shadow economy and the losses from illegal logging has increased by 77% reaching a total of 300 million hryvnas over the last 5 years, but the Ukrainian legislation provides for a single fine, which is only 170 hryvnas, regardless of logging volumes. In addition, this negative situation is aggravated by ineffective instruments of regulation, 50% of which carry high corruption risks both for the state and for businesses. All this is compounded by a lack of state electronic timber management and the development strategy in the field of forest resources along with the determination of indicators of effective development of this market.

As for the moratorium, while several companies have benefited from it, the actual benefits for the country are highly questionable. You can read all the details here and in this [publication](#).

## IMPROVING REGULATION IN UKRAINE

BRDO is an independent think tank. Our mission is to promote effective regulation and economic freedoms in Ukraine with a focus on small and medium sized enterprises as important drivers of growth.

BRDO is supported by a growing number of partners and donors, including the European Union's EU4Business Program (FORBIZ project) implemented by GFA Consulting Group, GIZ International Services, and Berlin Economics GmbH, the Embassy of the Kingdom of the Netherlands (MATRA program), EDGE - Expert Deployment for Governance & Growth Project (Agriteam Consulting/Global Affairs Canada), and the World Bank.

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