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INTELLECTUAL PROPERTY RIGHTS AND COMPETITION POLICY

The article reveals special features of interrelation between intellectual property law and competition policy. The author proves that IPR can create significant entry barriers and restrict competition on goods and services markets. Recommendations towards harmonization of intellectual property law and competition policy in transition economies are given.

Key words: intellectual property rights; competition; entry barriers; competition policy.

Introduction. Transition of developed countries into the knowledge-based economy, the fourth industrial revolution (industry 4.0) and strong competition at both national and global levels, actualize issues of protection of intellectual property rights and create conditions for fair economic competition between business entities. In developing countries these goals often contradict. Intellectual property rights can create significant entry barriers for new enterprises and restrict competition on goods and services market. That is why the problem of balancing competition, innovation and levels of market power, connected with objects of intellectual property (OIP), is extremely relevant.

Analysis of previous researches and publications. Problems of competition policy and protection of intellectual property rights are widely covered both in foreign and domestic literature. In particular, competition policy and peculiarities of its implementation in countries with transition economies can be found in the works of A. Ignatyuk, A. Kurdin, G. Filyuk, A. Shastitko, etc. Intellectual property rights (IPR) were studied by V. Bazilevich, V. Virchenko etc. However, it should be noted that domestic economists did not pay enough attention to their interconnection and mutual influence. Foreign authors (K. Correa, J. Oliveira, M. Scantlbery, P. Trivelli, T. Fujiara) study this problem, but their works are usually descriptive and describe the situation mostly in developed countries. At the same time, harmonization of intellectual property law and competition policy in transition economies, especially in post-Soviet countries are usually ignored by scientists and require more careful research.

Methodology. Several scientific methods were used in the process of studying the problem. In particular, the method of comparison allowed us to reveal the best practices in harmonization of intellectual property law and competition policy in transition economy of Ukraine. Methods of scientific abstraction, analysis and synthesis were used to study the peculiarities of the interconnection of competition policy and protection of intellectual property rights.

Purpose of the article. The article reveals special features of interrelation between intellectual property law and competition policy and their harmonization in transition economies.

Results. Competition that is a rivalry for the fullest satisfaction of customers' needs and increasing of the market share is closely related to innovation activity. Business practice shows that only companies which regularly use results of R&D increase sales volumes and profits and win customers' loyalty. So in the rating of the most expensive brands in 2017 Brandz first five positions are occupied by companies related to high-tech sector (Google, Apple, Microsoft, Amazon, Facebook), 6th) – telecommunications (AT&T), 7th – financial services (Visa) [1]. We can come to the same conclusions analyzing rating of top 500 global companies published by Financial Times. For example, in 2015 30 companies from this rating acted at pharmaceuticals & biotechnology, 19 – at technology hardware & equipment, 16 – at software & computer services, 15 – at mobile telecommunications. That means that 16% of the biggest global companies belong to the markets which are directly related with production of the objects of intellectual property and nearly 20% of companies act at the markets whose entities consume results of intellectual activity (banking and financial services) [2]. Thus we can conclude that the most successful global companies won competition because of implementation of new ideas which are not related to the physical capital. They are the results of intellectual activity.

In order to increase the incentives for enterprises to implement such innovations, some countries protect their exclusive rights – intellectual property rights that enable the developer to restrict the use of the latest products or technologies by third parties. According to the economic-legal approach, intellectual property is defined as a set of legislative norms that regulate and consolidate property and personal non-property rights to the results of intellectual activity in order to attract them into economic circulation and transform them into economic benefits [3, p. 6].

In this context, it should be noted that it relates to the results of intellectual activity or objects of intellectual property (OIP). According to article 2 of the Convention on creation of the World organization of intellectual property signed in 1967, objects of intellectual property embrace: literary, artistic and scientific works; performances of performing artists, phonograms and broadcasts; inventions in all fields of human endeavor; scientific discoveries; industrial designs; trademarks, service marks and commercial names and designations; protection against unfair competition; all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields [4]. In our article, the focus will be on OIP, which can affect the efficiency of production activities of the enterprise in particular and the market as a whole. Thus, the object of our analysis will be objects of industrial property (inventions, industrial designs, utility models, rationalization proposals), non-traditional OIP (breeding achievements, integrated circuit layouts, know-how, commercial secrets), and means of individualization of participants in the circulation of goods and services (service marks, trademarks and commercial names) [5, p. 6].

The policy in the field of protecting intellectual property rights is closely linked to the competition policy with government and supranational activity aimed to prevent and stop direct violations of antitrust legislation, to create and protect competitive environment at the national and global markets, to promote development of competitive relations and fair competition, to increase competitive

culture in the society [6, p. 232]. Though at the most of countries they are used as separate regulatory regimes they have common goal – to promote efficiency at goods and services markets. We even can conclude that they both aimed to strengthen competition, but if protection of IPRs promotes competition before company occupies certain market niche as a result of using innovations, then competition policy helps to reach this aim in the case of formed market structure [7, p. 116]. Nevertheless, historically policies in these fields developed separately. This resulted in separate establishment of institutions, drafting legislation and scientific researches in these fields. The situation has recently changed, which can be explained by the active development of global trade, requiring harmonization of legislation.

The system of intellectual property rights protection is more standardized at regulatory level because lots of international agreements were signed in this field. At the same time, it is supposed that national regulators are very flexible when this legislation is adapted according to the national reality. Concerning competitive policy, we can conclude that each government uses its own approach to implementation of this policy and it isn't internationally standardized.

Concerning special features of interrelation between competition policy and policy in the field of IPRs protection we should admit that competition regulators consider IPRs not only as a way of innovation activity incitement, but also as a tool of gaining market power or dominant (or even monopoly) position by setting up barriers to enter goods and services markets. This could be explained by that fact that IPRs give their holders exclusive access to the results of intellectual activity. The government considers that objects of intellectual property should satisfy needs of the whole society. In this context we can conclude that there are some contradictions between competition policy and policy in the field of IPRs protection.

The existence of contradictions and goals priority depend on the purpose of competition policy of a certain country. For example, such purpose can be market efficiency, ensuring maximal economic freedom, increasing customers' welfare or reaching high rates of economic growth. Business practice shows that in first two cases the priority is to ensure high level of competition, and in the last two cases – to create incentives for innovation, intellectual activity of companies would be more important even if it results in competition weakening at the market. For instance, in South Africa the purpose of competition policy is "promotion and supporting of competition" achieving a whole range of goals, including "efficiency, flexibility and economic development" and increasing social and economic welfare of population [8, p. 2]. According to the Law of Ukraine "On Protection of Economic Competition", the goal of domestic competition policy is "ensuring the effective functioning of the Ukrainian economy on the basis of the development of competitive relations" [9].

As it was already noted, this provides a significant advantage for the holder of the rights and in case of zero competition, it may even take the monopoly position. The situation is possible when the result of intellectual activity is unique or when the OIP is so wide that it is impossible to enter the market without violating them. In this case, the task of competition policy is to harmonize possible anti-competitive effects.

At the same time, some Western economists point out that this situation is more an exception than a rule, because quite often there are numerous substitute goods. This means that it can provide the owner control only over a particular market segment, rather than over the entire commodity market [10, p. 6]. In our opinion, this conclusion is valid only for developed countries, as developing countries are usually characterized by a low level of technological development, and therefore, substitutes for legally protected OIP may either be insufficient or absent.

In this context, there is another question: what can be considered a substitute product for OIP? This issue is critical because the volume of counterfeit ("pirate") products is increasing (according to the OECD's studies on global counterfeiting global trade of counterfeit goods has grown from 250 billion USD (or 1.9% of world GDP) in 2007 to 461 billion USD (or 2.5 % of world GDP) in 2013) [11, p. 11]. This is possible because of the very nature of the product of intellectual activity, protected by the corresponding exclusive rights: high cost of obtaining permission for its use, high constant costs and low variable costs, which are usually reduced to the cost of replication. The use of counterfeit products allows competitors to obtain a resource that does not have close substitutes, and sometimes just exclusive with minimal cost.

From the consumer's point of view, counterfeit products are the substitutes of the original OIP, since they have approximately the same utility (technical characteristics, physical parameters, functional purpose, etc.) [12, p. 55]. At the same time, counterfeit products are usually characterized by low quality, and consequently a low price. At the same time, competition authorities usually do not consider counterfeiters as competitors for producers of original OIP because their activities are illegal. We consider such approach to be incorrect, since activities of these enterprises significantly undermine market positions of the companies engaged in intellectual, innovative activity due to the use of non-trivial competition, and consequently also affect the market structure. Therefore, the regulatory competition authorities face a non-trivial task of assessing the competitive position and behavior of producers of "pirate" products, analyze their influence on the level of competition and other parameters of the market structure and, on the basis of this, draw conclusions about the positive or negative impact of IPR protection on the level of competition.

Various intellectual property rights (licensing, trademarks) may have different effects on the level of competition in the industry markets (Table 1). In particular, dominant firms may use licensing as a way to prevent competitors from gaining important technical information or technology in general.

Table 1. **Impact of different intellectual property rights on market structure and competition**

Intellectual property right	Positive impact	Negative impact
Patent	Promotes fair market behavior through prevention copying or imitation patented goods	May lead to: – price coordination; – restrictive selling practices; – abuse of dominant position; – increase of entry barriers.
Patent pools	Promotes competition and increases customers' welfare through: – integration of complementary technologies; – reduction of transaction costs; – clearing blocking positions; – avoidance of costly infringement litigation; – promotion the dissemination of technology.	Facilitate tacit collusion in a multiplicity of markets. Allows to impose abusive terms on nonmembers wishing to get access to technologies.
Intellectual property licensing	Promotes innovative competition	Extends patentee's market power
Copyright	✓ Increases returns on scale ✓ Increases global welfare through usage of international price discrimination	Blocks development of secondary markets by denying access to essential facilities necessary for undistorted competition
Trademark	Promotes competition through company's product differentiation	Leads to usage unfair competition by misuse of another's trademark Blocks parallel import and thus leads to setting higher prices at some markets

Source: systematized by author.

Article 102 of the Treaty on the Functioning of the European Union (TFEU) prohibits abusive conduct by companies that have a dominant position on a particular market. Very often this article is used for establishing "special" responsibility according to which dominant firm is obliged to give an access to its IPRs to its competitors under certain conditions if it does not restrict or eliminates competition. Refusal to give a license is an evident of abusing of dominant position if: 1) an object of intellectual property towards which company gives a license is necessary to compete; 2) firm that wants to gain a license is going to supply goods and services which are not supplied by owner of IPRs and which have potential customers demand; 3) refusal reserves secondary market for IPRs owner by elimination of competition at that market; 4) refusal is not proved by objective circumstances. Examples of such situations are cases Radio Telefis Eireann & Independent Television Publications Ltd. vs. Magill, IMS Health GmbH & Co. OHG vs. NDC Health GmbH & Co. KG, Microsoft Corp. vs. Commission. At the last case European Commission concluded that Microsoft abuses its dominant position at the market of operating systems for PCs because it refused to give certain information about interface of group its working servers to its competitor Sun Microsystems. Based on this decision Court of first instance ordered that Microsoft abuses its dominant position and thus restricts technological development as a whole.

In order to avoid such cases compulsory licensing can be used. Especially it concerns the cases when negative impact of licensing on incentives of a dominant firm to innovate is less than its positive impact on innovative climate at the whole market. For example, in Australia compulsory licensing is used in case when patent owner cannot prove that license was refused even in the case when tough competition existed at the market.

The other approach is used in the USA. In particular, according to the essential facilities doctrine firms are not obliged to deal with their competitors because it contradicts the antitrust law aimed to prevent agreements between competitors because it may have negative impact on economic competition. The right of patent holder to refuse licensing on using its intellectual property may be restricted only under certain conditions: 1) if patent was obtained with using fraud; 2) if litigation about using patent was fraud or 3) if patent owner uses its right to refuse sale patented parts to obtain monopoly position at the market that goes beyond of the patent scope. In order to define a necessity to give an access to third parties to the object of intellectual property the four-step model was designed which estimates the level of monopolist's control over fixed assets, competitors' inability to design the same object, refusal to give an access to the object for competitors and possibility to give an access to certain object.

Competition policy and the policy in the field of IPRs protection are not harmonized in transition economies (including Ukraine) that is why the refusal to license competitors is considered to be a legal and rational decision of IPRs owner to limit access to results of its intellectual activity for other entities [13].

We also should admit that the impact of IPRs and their protection on level of competition and market structure is not unilateral. Very often there is a need in significant financial expenditures to produce an object of intellectual activity and to transform it into innovation and a lot of firm could not allow themselves to make them. J. Schumpeter set up the next hypothesis: monopoly position is a main precondition of successful innovation [12, c. 253]. The same conclusions were made by J. Galbraith who considered monopoly profit as a main source of funds for R&D. At the same time, we should admit that further theoretical and empirical researches of this problem gave contradictive results that's why effectiveness of monopolistic market structure in stimulation of companies' innovation activity is still not proved.

Despite diversity of interrelation and interplay between market structure and intellectual, innovation activity of companies we can conclude that existence of contradictions between government policies in these fields depend on social and economic conditions. In order to alleviate or eliminate these contradictions governments of developed economies try to harmonize legislation related to competition policy and IPRs protection (Table 2). For instance, in 1995 Federal Trade Commission (FTC) and Department of Justice published Antitrust Guidelines for the Licensing of Intellectual Property – new prescriptions towards interplay policy in the field of intellectual property

and competition policy, which became fundamental for government regulation in these fields. This document determines main principles which competition regulators have to stick to in regulation of the markets related to the objects of intellectual property. First of all, intellectual property is regarded as being essentially comparable to any other form of property with a purpose of antitrust analysis thus antitrust regulation at the appropriate markets is applied based on general principles. Secondly, antitrust regulators suppose that intellectual property directly is not a source of company's market power in the context of antitrust law. Thirdly, antitrust regulators recognize that licensing of intellectual property allows firms to combine complementary resources and has positive impact on competition that's why it shouldn't be prohibited [14, p. 2].

Table 2. **Legal acts aimed to harmonize policy in the field of IPRs protection and competition**

Year	Country/Institution	Legal Act	Main points of the Act
1989	Japan	Guidelines for the Regulation of Unfair Trade Practices with Respect to Patent and Know-How Licensing Agreements	Creates a legal framework which assures that protection of intellectual property rights has a procompetitive effect, stimulates companies' R&Ds and introduces new markets or new technologies
1994	WTO	Agreement on Trade-Related Aspects of The Intellectual Property Rights (TRIPS, Article 40)	Defines as illegal those "licensing practices or conditions pertaining to IPRs which restrain competition", because they have negative impact on trade, deter transfer and diffusion of technologies
1995	USA	Antitrust Guidelines for the Licensing of Intellectual Property	States antitrust enforcement policy with respect to the licensing of intellectual property protected by patent, copyright and trade secret law and of know how.
2003	USA	To Promote Innovations: The Proper Balance of Competition and Patent Law and Policy	Makes recommendation to the patent system to maintain proper balance with competition law and policy
2004	EU	The European Commission's Technology Transfer Block Exemption Regulation	Creates of so called "safe harbor" for procompetitive IP licensing agreements.
2005	Japan	Guidelines on Standardization and Patent Arrangements	Clarifies competition policy issues related to patent pools affecting technology standards
2007	USA	Antitrust Enforcement and Intellectual Property Rights: Promoting Innovation and Competition	Provides guidance on the agencies' competition views on a variety of IP-related issues (refusals to license patents, collaborative standard setting, patent pooling, IP licensing, tying and bundling of IP rights, and attempts to extend patent life beyond the expiration date)
2007	Japan	Guidelines for the Use of Intellectual Property under the Antimonopoly Act	Facilitates IPR-related transactions by clarifying its enforcement policy

Source: systematized by author based on data of UNCTAD, OECD, FTC and Department of Justice.

In addition, in 2003 FTC published report "To Promote Innovations: The Proper Balance of Competition and Patent Law and Policy" which shows US patent system and the impact of rights guarantee on competition.

Significant success in harmonization of competition policy and policy of IPRs protection was achieved in EU. In 2014 the existing competition regime was revised towards agreements about technology transfer. Its purpose was to stimulate innovations by creation of the so called "safe harbor" for licensing agreements in the field of intellectual property. In this document European Commission determined agreements which do not cause elimination of competition and thus are not regulated by the Article 101 of Treaty on the Functioning of the European Union. For example, competition authorities do not verify licensing agreements which participants do not have market power and whose market share exceeds 20 % (in case if they are competitors) or 30 % (if they are not rivals) [15].

In Canada Article 32 of Competition Act gives power to Federal Court to eliminate trademarks, give patents (including terms and conditions), cancel existing licenses or restrict patent rights and trademarks if they lower competition or prevent trade in other way.

We should admit that precise criteria or guidelines on regulation of negative influence of acquiring or using IPRs on market competition are not established in developing countries. Since strategic priority in such countries is accelerating of economic growth based on the using of innovations and economic policy is aimed at creation incentives for innovation activity, protection of intellectual property rights is priority and its impact on economic rivalry is ignored. According to the Article 9 of The Law of Ukraine "About protection of economic competition", norms of the Article 6, which prohibits anti-competitive coordination between entities, are not concerned agreements about transfer of intellectual property rights or usage of intellectual property [9].

In this context we should admit that such priorities do not have undeniable scientific justification because economists still discuss the impact of strong IPRs protection on social welfare and economic growth. For example, J. Stiglitz supposed that excessive IPRs protection did not have positive effect on innovation development of developing economies, but also resulted in its inhibition [16]. The same conclusions were made by other western economists. Empirical researches show that patent protection usually did not improve the R&D sector. Especially it concerns software markets where programs which are available for everybody, stimulate innovation process and do not strengthen innovative activity. Moreover, companies – patent owners decrease their expenditures on R&D and set unreasonably high prices on their products. In this case we suppose that priority should be static (not dynamic) efficiency and not to allow monopoly pricing at the markets.

Problem of harmonizing competition policy and IPRs protection in developing countries, including Ukraine, could be explained by immaturity of their legislation in these fields. For example, the first attempts of intellectual property rights protection in Ukraine were made in 1991 with the Law of Ukraine "About property". Special legislation in this field was adopted in 1993. In developed countries this process has started at the end of 19th century. We can say the same about competition legislation. Ukrainian inadequate legislation in these fields results in creating problems. According to the Global Competitiveness Report in 2016-2017 Ukraine was ranked on 125th position according to the indicator "Protection of

intellectual property" (and 131st position according to "Property rights") among 138 countries and 136 th position according to "Efficiency of competition policy" [17, p. 351].

Such poor results are expected because the effectiveness of government regulation in Ukraine is influenced by high level of corruption which leads to selectivity in implementation of legislative norms to certain companies and by absence of public control over the activity of regulatory authorities and non-formal institutes which could support and popularize some regulation norms. In this regard there is an urgent need to find the best option of combination of the instruments of competition policy and policy in the field of intellectual property rights protection, taking into account the national peculiarities. Blind duplication of practices used by developed countries does not allow to achieve desirable static and dynamic efficiency because the efficiency of interplay between policies.

We suppose that the main directions of harmonization of competition policy and IPRs protection which could result in simultaneous strengthening of market rivalry between companies and activation of their innovation activity are:

- development of special regulatory norms in the field of competition for high-tech markets and markets of innovative goods which will take into account peculiarities of their functioning;
- elaboration of procedures related to the review and granting patents by strict criteria for choosing goods which could be regarded as innovation and could be protected by certain IPRs. It will help to prevent spreading of the so called "low quality" patents and gaining invalid competitive advantages;
- development of the mechanism of estimation of IPRs protection impact on the intensity of market competition that allows to compare positive impact of the object of intellectual property protected by certain rights on efficiency of market functioning and social welfare and damage for business competition caused by such protection and based on this comparison to make appropriate decisions;
- usage of compulsory licensing with the clear list of conditions. It will help to counteract the abuse of dominant or monopoly position by patents owner and thus to increase customers' welfare;
- taking into account the activity of counterfeit goods' producers when competitive authorities analyze markets where entities are protected by IPRs. This allows to make adequate conclusions about market structure and to avoid an excessive pressure on producers of original goods;
- attraction of the Antimonopoly Committee of Ukraine to struggle with counterfeit products distribution by adding to the Law of Ukraine "About protection from unfair competition" norms which determine production and distribution of "pirate" goods as ways of unfair competition and set administrative and criminal liability for its implementation;
- creation of independent contract research organizations aimed to create objects of intellectual property, their commercialization and granting equal access for all market entities on a paid basis.

All these measures will promote formation and development of the national innovation system and increase efficiency of market competition.

Conclusions and discussions. Intellectual property rights and competition are deeply interrelated. It causes a need to coordinate state policy in these fields. Their optimal combination will give an opportunity to bring innovation activity to a new level because it will help to create incentives for intellectual activity within companies, to attract investments to finance it, to ensure gaining profits from commercialization of its results and to create favorable competitive environment for its realization.

Implementation of certain instruments of competition policy and level of intellectual property rights protection in each case should be based on results of economic analysis and current legislative ground should meet the requirements of time and take into account national peculiarities of a country where it is implemented.

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ПРАВА ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ ТА КОНКУРЕНТНА ПОЛІТИКА

Розкрито особливості взаємозв'язку між політикою у сфері захисту прав інтелектуальної власності та конкурентною політикою. Виявлено, що за певних умов права інтелектуальної власності можуть виступати бар'єром входу на товарні ринки й обмежувати конкуренцію на них. Розроблено рекомендації щодо гармонізації політики у сфері захисту прав інтелектуальної власності та конкурентної політики у країнах із трансформаційною економікою.

Ключові слова: права інтелектуальної власності; конкуренція; бар'єри входу; конкурентна політика.

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ПРАВА ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ И КОНКУРЕНТНАЯ ПОЛИТИКА

Раскрыты особенности взаимосвязи между политикой в области защиты прав интеллектуальной собственности и конкурентной политикой. Установлено, что в определенных условиях права интеллектуальной собственности могут создавать барьеры входа на товарные рынки и ограничивать конкуренцию на них. Разработаны рекомендации относительно гармонизации политики в области защиты прав интеллектуальной собственности и конкурентной политики в странах с трансформационной экономикой.

Ключевые слова: права интеллектуальной собственности; конкуренция; барьеры входа; конкурентная политика.

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ВЛИЯНИЕ КОГНИТИВНОГО СТИЛЯ РАБОТНИКОВ НА РЕЗУЛЬТАТ ЭМОЦИОНАЛЬНОГО ТРУДА ПЕРСОНАЛА ПРЕДПРИЯТИЙ ТУРИСТИЧЕСКОЙ ИНДУСТРИИ

Рассмотрен эмоциональный труд как процесс, характеризующийся особенностями работы в туристической сфере. Предложено 16 составляющих элементов эмоционального труда на предприятиях индустрии туризма и гостеприимства, проанализировано их влияние на отдельные экономические (благосостояние сотрудников, производительность, текучесть кадров) и психологические (уровень стресса, степень приверженности компании и удовлетворения от работы) показатели с точки зрения когнитивных особенностей персонала и выбранных им эмоциональных стратегий поведения. Обосновано влияние когнитивной компоненты личности работника на качество предоставляемого сервиса.

Ключевые слова: туризм и гостеприимство; эмоциональный труд; организационная культура; когнитивный стиль; туристическое предприятие.

Постановка проблемы. Глобальное социально-экономическое значение туризма подтверждается ежегодным увеличением количества туристических путешествий. Так, число международных туристических прибытий в мире в 2016 г. увеличилось на 3,9 % (1235 млн чел) по сравнению с 2015 г., а прогнозируемый их рост в 2017 г. составит 4,5 %. Прямой вклад туризма в мировую экономику в 2016 г. достиг 2306 млрд дол. США, что обеспечило 3,1 % от мирового ВВП, а среднегодовой прогнозируемый прирост за 2017–2027 гг. запланирован на уровне 4 % [1, с. 1].

Рост экономических показателей развития мирового туризма свидетельствует о его инвестиционной привлекательности (4,4 % международных инвестиций в 2016 г.) и расширении туристической инфраструктуры, что обеспечивает ежегодный прирост занятости в туризме и сопряженных с ней отраслях. По данным ЮНВТО, в 2016 г. каждое 10 рабочее место в мире было связано с организацией и обслуживанием туристических потоков, а непосредственно в сфере туризме занято 108,7 млн чел. Прогнозируемый прирост этого показателя в 2017 г. составит 2,1 %, а к 2027 г. – 4 % всей мировой занятости [1, с. 1].

Стоит отметить, что устойчивое увеличение численности персонала, занятого в туристической индустрии, не решает проблем, связанных с качеством обслуживания в дестинациях и офисах туристических предприятий. Одной из важных проблем остается высокая текучесть кадров [2, с. 166], что свидетельствует о неудовлетворенности персонала работой, низкой мотивации, высоком эмоциональном напряжении и постоянных стрессах. Следствием этого являются случаи некорректного поведения персонала, как с клиентами, так и с членами коллектива, увеличение числа конфликтов и формальный подход к обслуживанию клиентов. Эмоциональная неуравновешенность сотрудников становится одной из основных причин некачественного сервиса, о котором так много отзывов на туристических платформах в интернете и социальных сетях. Сложности эмоционального труда (ЭТ), его плюсы и минусы в туристической индустрии, возможности количественного измерения и влияния на результаты работы предприятий привлекают внимание ученых в области экономики, маркетинга и психологии.

Анализ последних исследований и публикаций. Несмотря на то, что выражению чувств уделяется значительное внимание в различных областях исследований, до недавнего времени оно (выражение чувств сотрудниками предприятий) практически игнорировалось в литературе по менеджменту, поскольку организации рассматривались как "машины, лишенные эмоций" [3, с. 9–10]. Однако в условиях клиентоориентированной экономики и острой конкуренции в туристической индустрии проблемам предоставления качественного сервиса и улучшения обслуживания уделяется достаточно внимания. Многочисленные отзывы туристов в