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Zahnitko O.P.

State Organization “V. Mamutov Institute of Economic and Legal Research
of the National Academy of Sciences of Ukraine”

CONTENT ANALYSIS OF THE COMMUNICATIONS BY THE FINANCIAL INSTRUMENTS RISK REGULATORS IN BELGIUM AND THE NETHERLANDS: CASE STUDY FOR ENERGY MARKETS IN UKRAINE

The NSSMC needs to enhance its communication strategies to bridge the gap with EU practices. This article reviews communication strategies from Belgium’s Financial Services and Markets Authority (FSMA) and the Dutch Authority for the Financial Markets (AFM). These models offer lessons for Ukraine, despite geographical and cultural differences, due to their effective handling of both financial and physical energy products. This article is part of a series examining the communication frameworks of EU regulators, including Germany’s BaFin and the European Securities and Markets Authority (ESMA), and analyzing Ukrainian laws to recommend improvements for NSSMC.

To achieve EU membership, Ukraine must implement the EU acquis, particularly in commodity markets. This task includes not only adopting supranational rules for a single market but also strengthening market integrity and transparency, which in a large part concern communications and other information flows. The EU markets, particularly those in the Netherlands and Belgium are good models of communication between regulator and market participants based on the existing channels, their consistency and the market awareness. Unlike the gradual development in mature EU markets, Ukraine must adopt the changes rapidly, but the transposition should be tailor-made in order to be sustainable. Effective communication is crucial for explaining laws, regulatory models, and policies to market participants and other stakeholders, including national government bodies and international counterparts, and the NSSMC needs to mirror the best practices in communication with its counterparties to avoid misunderstandings and/or cultural conflicts that may cost the funds or other means of support. Implementing large amount of the EU rules necessitates optimization of those limited resources that NSSMC has; careful long-term planning is also helpful in avoiding overlaps of complex legal policies at interplay on the wholesale energy products market and financial instruments market.

Ukraine should adopt an objective-linked approach that build trust and engage market participants, learning from the gradual development of markets in the Netherlands and Belgium but accelerating it in line with accession benchmarks. Strategic communication channels, including targeted meetings and public reporting on governance and performance as they made by AFM and FSMA, social media, newsletters, and public engagements are valuable tools for disseminating critical information that enhance transparency and trust in the market. Interesting quality measurement tool would be the NSSMC standard of disclosure in the annual report that follows and exceeds the reporting of the company with publicly traded shares: the approach of AFM that helps assess the time and work required from the market participant to comply – «do unto thyself as they want others do unto themselves» kind of rule.

Key words: regulatory communication, market governance, energy markets, wholesale energy product, Financial Services and Markets Authority, FSMA, the Dutch Authority for the Financial Markets, AFM, National Securities and Stock Market Commission, NSSMC.

Introduction. Ukraine strives to become a Member State of the European Union and, upon fulfilment of the undertakings pursuant to the Association Agreement [1] has started, as of June 25, 2024, negotiations on the accession treaty [2]. As a part of the accession exercise, Ukraine will need to implement the EU *acquis*, in particular, what concerns commodity markets, it will be not only the transposition of some supranational rules on the functioning of single market, but also a significant institutional and regulatory strengthening of the market integrity and transparency. With respect to the physically settled wholesale energy products, *acquis* consists of primary REMIT II [3] and secondary implementing acts, whereas financially settled contracts require to implement Market Abuse Regulation (MAR) [4], Directive on markets in financial instruments (MiFID II) [5], Regulation on markets in financial instruments (MiFIR) [6] and Regulation on OTC derivatives, central counterparties and trade repositories (EMIR) [7] and underlying technical standards. The National Securities and Stock Market Commission, Ukrainian capital markets and organized commodity markets authority (NSSMC) will lead in a transparent and unbiased manner, development of the financial risk mitigation for the commodity markets, in particular, energy market [8]. Prior to the accession, if the foregoing accession treaties are of any guidance, Ukraine will have to become a smaller version of the EU [9], which uses complex interplay of various pieces of regulation, policies and institutional action to make energy trading “an engine for fair competition”, which benefits consumers. Institutional and technical capacity of NSSMC should be strengthened with respect to regulation, oversight and enforcement of the organized commodity markets through the trading venues as well as foundational, for the electricity and the natural gas markets, definition of the wholesale energy product in its ‘dichotomy’ with financial instrument notion. Development of the new market models, instruments and practices, closing the gap between the EU and Ukrainian with regard to licensing, registration, supervision, regulation and control of trading and clearing venues, members and brokers. Better trade execution, combating price manipulation, futures contract design – all this and foregoing will have to take place more or less simultaneously unlike the mature markets in the EU, where the process was gradual and sustainable, because it was built on the tested ground with sufficient time to achieve the objectives. The mature markets of the EU, however, may demonstrate the result of the development that can

turbocharge the reform in Ukraine. This article reviews the communication channels between the market participants and the regulators, specifically, Financial Services and Markets Authority (FSMA), Belgium [10] and the Dutch Authority for the Financial Markets (AFM), The Netherlands [11]. Despite obvious geographical, demographical and cultural (especially in legal culture) differences between BeNeLux and Ukraine, the object of the content analysis is chosen based on the praised liquidity of the market and full product line on the energy markets – that is, unlike Central Europe, both Dutch and Belgian market boast financial and physical products.

Research background and objectives. Of course, the appropriation of the mature markets’ experience should be implemented in stages, it cannot be rolled out at once. Noteworthy, that NSSMC or any other institution manifests itself through the communication [12]. An important difference between Ukraine and the EU market authorities, especially mature market like the Netherlands and Belgium is that AFM and FSMA can emulate organizing effort tailored for the objective, whereas Ukrainian NSSMC does not demonstrate, in public opinion, apparent ‘political commitment’, despite being relatively competent and well-equipped. The working hypothesis is that the gap can be closed by NSSMC by mastering communications, in particular, replicating, with appropriate modifications, the structure, procedure and safeguards of the communications channels used by AFM and FSMA. This article is a part in a series of research papers that examine communication framework of the EU regulators, other parts covering communication protocols of the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin), Germany [13], communications channels by the European Securities and Markets Authority (ESMA) [14] and, finally, critical analysis of Ukrainian laws and recommendations on the NSSMC communications channels.

Main purpose of the communications is, in essence, is explanation of the laws, regulatory models, legal policies, governance etc. to the addressees – first of all, market participants, but also other stakeholders – in Ukrainian context, that would be national government bodies, to whom NSSMC reports – Verkhovna Rada, President of Ukraine, peer domestic political and regulatory bodies that operate in the adjacent or overlapping markets – National Bank of Ukraine (NBU), Anti-Monopoly Committee of Ukraine (AMCU), in the context of the wholesale energy products – National Commission on the State Regulation of Energy and Utilities (NEURC)

and the Ministry of Energy of Ukraine. Another important category is external counterparties that support Ukraine in its transition to the free commodity markets and mature financial markets – Bretton Woods institutions (International Monetary Fund, World Bank group) as well as specialized cooperation platforms, such as ESMA and the peer national regulators in the EU, including the AFM, FSMA and BaFin that lend the support to the NSSMC and evaluate the achievement of NSSMC in implementing the EU acquis. Explaining to the external stakeholders with conflicting interests has always been difficult, explaining complex rulesets is more than challenging. Organizational communications have been subject to a number of research and institutional theory had been developed to propose main causal links between sustainability of the institutions and the success of its communications [15]. The peer legal scholars has been paying attention to the academic and legislative developments on communications with the market participants and the investors in their jurisdictions, with a number of publications devoted to the practices of the world's leading market in the U.S.A by A. Estreicher [16], D. Remund & K. Kuttis [17], as well as by E. Wymeersch on the EU [18].

NSSMC as a regulator has not been subject of specific research with respect to its communications capacity, strategy and practices, neither comparative study has undertaken that focused on the communications channels of the NSSMC and peer regulators, although a few publications on the comparative study attempts of the institutions had been made, in the recent years, by A. Bosak & Yu. Doinik [19], N. Kovalko [20], V. Poliukhovych [21] and others. None, however, concerned authority of NSSMC in the area of the commodity markets generally or energy markets specifically.

Findings. The securities authorities in the EU effectively establish boundaries for the wholesale energy products, such as thresholds and triggers that make such products financial instruments. Therefore, albeit through negative definition, the wholesale energy products fall within the scope of supervision of the NSSMC as well as said authorities. AFM, FSMA and NSSMC are all members of the international bodies that coordinate supervision at a global level, such as the International Organization of Securities Commissions (IOSCO) and the International Organization of Pension Supervisors (IOPS). In addition, they also meet through the operation of the European Securities and Markets Authority (ESMA) and of the European Insurance and Occupational Pensions Authority

(EIOPA), within the framework of the Ukraine – EU Association Agreement [1].

Effective communication strategies emphasize proactive engagement, standardized channels, and ongoing dialogue with market participants to ensure regulatory coherence and foster trust in the supervisory process. The protocols include stakeholder consultations, and transparency initiatives in Ukraine. By addressing identified gaps and leveraging best practices from EU institutional communication paradigm, the NSSMC can create a communication ecosystem that empowers market participants, enhances regulatory compliance, and drives sustainable market development.

AFM Communications with the Market. The Dutch financial regulatory authority, AFM, adopts a proactive approach in cooperating with market participants, particularly in market surveillance and combating commodity and financial market disruptive behaviors. Market participants play a crucial role in preventing and detecting market manipulation and insider trading by submitting reports of the alleged wrongdoing. Since July 2, 2016, market operators, investment firms operating a trading venue, and individuals brokering or executing transactions on a commercial basis are required, in accordance with Article 16, paragraphs 1 and 2 of the Market Abuse Regulation (MAR) [4], which in the Netherlands took a form very much like Suspicious Transaction and Order Reports (STORs) in Germany [22] and a general feature of EU regulations to prevent financial market abuse.

Incidents and wrongdoings of interest to AFM refer to situations and issues within the company or the sector that may negatively affect competition, interests of the consumers or the public coffers. Wrongdoing encompasses any actions by counterparties, officers and directors of the market participants concerned, company as a whole or its employees; the incident is worth reporting if the facts suggest that consequences may undermine confidence in the company or in the market. Additionally, incidents within a market participant's organization that negatively impact or may impact the trustworthiness of policymakers, ethical business practices, controlled operations, or the continuity of the business are considered wrongdoings.

Anyone who identifies wrongdoing in the financial services sector can report it to the AFM. The notification report can mention companies, their employees or consumers interacting with these companies.

Notifiable to AFM wrongdoings include a set of the categories: major flaws in the business process,

such as record-keeping or recruitment policies; new financial instruments and offers to the customers that do not serve the client's best interest, poor or unusual advice to retail customers, knowledge (not a speculation) about someone committing administrative or criminal offense in the sector (including fraud, forgery, swindling), discriminatory or competition distorting practices, civil fraud, forgery, or swindling, unauthorized marketing including cold calling, unusual or unauthorized fees and commissions [23]. Unlicensed commercial activities or violation of the terms of the license (actual or potential), unqualified personnel that advises or brokers the products, persons with criminal record that are not registered with the AFM but controlling, secretly or indirectly, the company (the so-called 'straw man' structure) [23]. The reporting system allows to make anonymous notification or use the information without disclosing the whistleblower. However, the due process requirements may lead to disclosure of the whistleblower's identity in case the latter did provide the personal details but chosen not to be mentioned in the public part of the process. To improve the personal data protection, the AFM, pursuant to the changes in legislation effective as of the end of 2021. As a result, the AFM no longer uses public online services such as WeTransfer, Dropbox, Google Drive and Microsoft One Drive for the suspicious transaction reporting. It is possible only to exchange files with the AFM via Cryptshare software that is specifically designed to delete the personal traits of the notifying person.

The AFM reviews all STORs and other notifications received from market participants and determines the most appropriate response. The AFM maintains constant contact with market participants to improve their level of surveillance and the quality of their STORs.

AFM Market feedback communications channels. The AFM closely interacts with market participants supervised in the Netherlands through various communication channels, including periodic meetings and on-site visits. These channels facilitate dialogue and collaboration between the regulatory authority and market participants, addressing concerns related to suspicious behavior in the market. Through these meetings, market participants can provide insights into their surveillance systems and STOR procedures, while the AFM shares its surveillance findings and expectations. This open line of communication fosters transparency, enhances regulatory oversight, and helps ensure the integrity and stability of the markets under oversight of the AFM.

AFM Disclosure to the Market. Due to its obligation to professional secrecy, the AFM refrains from disclosing detailed information about its actions in specific cases. However, the AFM provides feedback on the quality of reports, such as STORs submitted by market participants, when necessary. This feedback mechanism enhances the quality of reports and fosters more efficient communication between the AFM and market participants.

The AFM Market Watch is a periodic newsletter published online and circulated via e-mail, which serves as one-way communication channel between market participants and the regulatory authority on the comprehensive coverage of current capital markets and organized commodity market topics [24]. It delves into subjects such as MAR [4], MiFID II [5] and transaction reporting under MiFIR [6], offering insights and analysis on relevant developments. The AFM Market Watch contains observations and findings on contemporary capital market developments, utilizing data analyses to inform both market participants and the regulatory authority.

Additionally, amidst volatile energy and capital markets in 2022–2023, the AFM sent informative emails to targeted groups of market participants, including commodity traders and specific asset managers, providing relevant insights and guidance on complying with Article 16 MAR.

Strategic Messages to the Market Participants. AFM publishes its vision in the form of the annual agenda [25], whereas results of the foregoing calendar year are summarized in the annual report [26]; both documents reflect summary and forward-looking vision on the major trends and risks in the sector, the priorities and activities of the consecutive 24 months around the present day. Agenda for 2024, for example, contains key developments, annual strategy, transversal objectives, sectoral and general priorities for AFM as a mega-regulator: asset management, audit, capital markets, financial sector (in Ukraine, functions of the AFM are split between NSSMC and the NBU). 2023 annual report, accordingly, is a reflection on the achievements, evaluation against the objectives set, sector specific and cross-sectoral in terms of stakeholder dialogue, assessment of individuals and organizations, as well as disclosure on the AFM itself – very similar, structurally, to public disclosure by the company with publicly traded shares. Interestingly, in the public interest, the AFM also discloses its external KPIs and self-evaluation in the appendix to the general reform. The annual report and annual agenda are the most comprehensive documents that are based

on the mid-term triannual strategy, also publishable, which provides a larger overview of the vision, for example, the AFM 2023–2026 strategy was summarized as a *“need to become more versatile and inquisitive as an organization, hire motivated and talented staff and make use of high-quality data and IT facilities. This will help us take a risk-based, data-driven and result-oriented approach to our supervisory role”* [27]. The updates on the strategic course are communicated to the external stakeholders through the Trend Monitor [28] – booklets with topical or cross-sectoral summaries, mapping for risk and regulatory developments.

AFM InnovationHub. The InnovationHub is a collaborative information desk established by the AFM jointly with De Nederlandsche Bank (DNB) and the Netherlands Authority for Consumers & Markets (ACM), which ensures fair competition between businesses and protects consumer interests [29]. The knowledge hub offers support to new and pre-existing legal entities and entrepreneurs with questions about supervision and regulations concerning innovative financial products and services, including the trading strategies and their compliance with the competition rules as well as financial services markets restrictions. The InnovationHub is accessible to the enquirers, regardless of whether they are subject to supervision to either of the regulators; the experts from both financial regulators will provide market participants with quick and adequate support, albeit their advice and communications will be informal, they specifically exclude formal opinions or detailed consultations. For a formal opinion, e.g. on the scope or interpretation of the particular piece of legislation, the applicant needs to go through the regular channels and expect regular speed of response. Worth emphasizing that the InnovationHub is not a ‘Regulatory Sandbox’ in which laws and regulations are (temporarily) set aside or lifted, the hub is rather an access to the experts that are most capable of rethinking the business models, products and services within an effective legal frameworks in its entirety. Where needed, the DNB and the AFM will bring the issue of equal treatment for the innovative products, services and business models to the attention of other peers – national and supranational supervisors in the EU and beyond.

Informal communication in the InnovationHub is supported by non-disclosure of the information received from the market participants, except on the aggregated basis; another potential reflection on the new experiences and data processed would be in the Q&As on the website of the InnovationHub.

AFM Consultations with the market. The AFM employs a three-layered consultation structure: strategic, stakeholder and expert. Strategic consultations are held in the informal management forum to discuss relevant developments and their medium-term implications, often with only one market participant present or the largest players from the industry, e.g., the largest trading venue, the largest trader, the largest producer (issuer). Annual consultations with CEOs of leading market parties are held to obtain feedback on the AFM’s supervisory tasks, priorities, and development of supervision.

Stakeholder consultations are conducted with the ‘Advisory Panel of Representative Organisations’ to discuss policy intentions and the budget. They can be roughly compared to the self-regulated organizations in Ukraine, although such business amalgamations do not earn special status under the EU law, as they distort the revelation principle and, therefore, the competition. The stakeholders are free to form the associations and other cooperation *fori*, but their social capital remains unformalized and can be challenged by other industry players and/or forms of collaboration. The Advisory Panel of Representative Organisations meets at least twice a year to discuss the AFM’s annual plan, budget, levies, and Annual Report and Accounts.

Expert committees deal with the projects where specific market knowledge concerning new tasks is collected. The Capital Market Committee advises the AFM on the application of rules, legislative aspects, and interpretations related to public offerings, market abuse, and prospectuses. It also advises on financial reporting supervision and oversight of accountants’ organizations.

In February 2006, the AFM established the Financial Consumers Committee, which advises the AFM on its supervisory and information-giving tasks related to financial consumers. This committee discusses policy intentions, draft regulations, and interpretation issues from the consumer’s perspective.

The Financial Services and Markets Authority of Belgium (FSMA). FSMA adopts a proactive approach to communication and education aimed at market participants. Through various initiatives, the Financial Services and Markets Authority seeks to enhance understanding, compliance, and financial literacy among individuals and institutions operating within Belgium’s financial markets. The key components of the FSMA’s communication strategy include annual reports, workshops and webinars, educational platform WikiFin.

FSMA Annual Reports on Supervisory Vision. The FSMA publishes annual report on its supervisory strategy to promote regulatory transparency and accountability. The annual reports outline the FSMA's regulatory priorities and expectations while providing valuable insights into ongoing practices and future plans. By offering a comprehensive overview of its supervisory approach, the FSMA empowers market participants to align their practices and operations with regulatory goals. This transparency fosters a culture of compliance and accountability within the financial industry, as market participants gain a clearer understanding of the regulatory landscape and the expectations placed upon them. Additionally, the annual reports serve as a mechanism for the FSMA to communicate its strategic direction, guiding market participants in navigating regulatory changes and anticipating future developments. Overall, these reports promote regulatory clarity, enhance market confidence, and facilitate cooperation between the FSMA and market participants.

Workshops and Webinars. The FSMA of Belgium organizes large-scale workshops and webinars, such as the conference for the anti-money laundering compliance officers (AMLCO Day) attended by thousands of people [30], or the webinar on insurance sector rules of conduct. The conferences and workshops facilitate industry-wide engagement and collaboration. These events go beyond merely disseminating regulatory updates; they represent a concerted effort by the FSMA to foster meaningful dialogue and knowledge exchange among a broad spectrum of market participants. By convening such gatherings, the FSMA ensures direct interaction between regulatory authorities and industry stakeholders, making regulatory information effectively communicated and understood. The inclusivity and accessibility of these events highlight the FSMA's commitment to transparent regulatory communication. These workshops and webinars promote transparency, enhance regulatory compliance, and foster a collaborative relationship between the FSMA and market participants, ultimately strengthening the resilience and integrity of Belgium's financial markets.

Wikifin. The FSMA's website, www.wikifin.be, has achieved remarkable success, with over four million annual visits. Designed to provide consumers with impartial, dependable, and actionable financial guidance, the platform serves as a beacon of financial literacy in Belgium. The launch of the Wikifin

financial education program epitomizes the FSMA's commitment to enhancing financial literacy across the Belgian population [31]. Through this initiative, individuals gain the knowledge and tools necessary to make sound financial decisions, thereby bolstering both financial stability and consumer protection. An extensive advertising campaign had been launched to promote Wikifin, amplifying its reach and encouraging individuals to use the platform to address their financial inquiries and uncertainties.

Overall, the FSMA's strategy reflects a comprehensive approach to communication and education within Belgium's financial ecosystem. By leveraging a combination of traditional and digital channels, alongside targeted educational initiatives, the FSMA aims to foster a well-informed and compliant financial community. This approach not only enhances market integrity but also reinforces trust in the regulatory framework, ultimately benefiting both market participants and the broader economy.

Conclusions and implications. Whilst implementing the EU rules, it is important for Ukraine to optimize the resources so that overlaps are avoided, on one hand, and, on the other hand, clear delineation of various rulesets are established with due consideration of difference in starting points for each piece of legal policy concerned. Another important point is the sustainability of the market development: the EU national and supranational markets were built gradually and, as they matured, more sophisticated rules were added on top; therefore, full copying at once would not be possible but rather a bespoke approach built on the generalized experience that worked every time in a different environment. AFM and FSMA provide a robust example of the mature market communications model that developed trust and engaged the market participants into various collaboration despite and without prejudice to their competing commercial and corporate interests. The communication is essential for building the market community, that is, a part of the human living environment built on values and exercised through various procedures and institutional rules, such as moderated discussion around the annual report with the vision for future development. Another useful channel is protected whistleblower platforms that balance anonymity of the reporting person with sufficient fact check and other necessary due process safeguards. The STORs proved to be a valuable tool for a market community self-check, and they have been adopted as European Union – wise tool for feedback, that is, whistleblowing type.

Strategic communications channels that appear to be productive are targeted meetings – in-house and on-site. Both the Netherlands and Belgium are much smaller countries than Ukraine and, therefore, external meetings in Ukraine should be planned 1–2 months in advance and the place selected with care. Interesting approach worth exploring – the NSSMC should try to apply the standards for the publicly traded companies to itself and publicly report on the governance, finances, management and outlook as well as key performance indicators.

Disclosure of personal information is a sensitive thing, however, in Ukraine a public domain has insufficient transparency about its inner workings and, therefore, publication of the daily schedule of the Commissioners – calendars of their meetings with topic, counterparty and duration – would be a welcome move for the market environment that is currently infected with distrust to the motives and behind-the-scenes influences on the civil servants and political appointees.

Social media channel, newsletter, email distribution of alerts, public speaking engagements are useful informal communications channel to generalize

practice, report important cases and findings, circulate critical or dissenting view on the traditional issue for the benefit of intellectual work.

Further research can be aimed at linking strategy objectives to targeted indicators of the regulatory model, determining the key performance indicators, quantification of the regulatory environment and capacity of NSSMC with its recently uplifted powers [32]. Codes of conduct and/or guidelines for communication as well as visual styles can become an area of applied research and procurement by the NSSMC. Communication style and channels for various sectors or markets can also be a subject of academic debate on the axis of ‘uniformity and consistency’ of the NSSMC *versus* ‘professional and educational background’ of the target audience.

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Загнітко О.П. АНАЛІЗ ЗМІСТУ КОМУНІКАЦІЙ ОРГАНІВ РЕГУЛЮВАННЯ РИЗИКУ ФІНАНСОВИХ ІНСТРУМЕНТІВ БЕЛЬГІЇ ТА НІДЕРЛАНДІВ: ПРИКЛАД ДЛЯ ЕНЕРГЕТИЧНИХ РИНКІВ УКРАЇНИ

Національна комісія з цінних паперів та фондового ринку (НКЦПФР) має покращити свої комунікаційні канали, щоб подолати розрив із практиками ЄС. У цій статті розглядаються комунікаційні стратегії Уповноваженого органу з фінансових послуг і ринків (FSMA), Бельгія, і Уповноваженого органу з фінансових ринків (AFM), Нідерланди. Ці моделі, завдяки ефективному регуляторному впливу як на фінансові, так і на фізичні енергетичні продукти, пропонують добре застосовний для України досвід, не зважаючи на географічні та культурні відмінності цих країн та нашої. Ця стаття є частиною в серії досліджень систематичної комунікації регуляторів ЄС, крім AFM та FSMA, також BaFin, Німеччина, та Європейського органу з ринків цінних паперів (ESMA), крім того, проаналізовано українське законодавство та запропоновано рекомендації на покращення практик НКЦПФР.

*Щоб досягти членства в ЄС, Україна повинна імплементувати *acquis* ЄС, зокрема на товарних ринках. Це завдання включає не лише запровадження наднаціональних правил єдиного ринку, чинних в ЄС, а й посилення добросовісності й прозорості ринку, що значною мірою може бути реалізовано через управління соціалізацією та іншими інформаційними потоками між регулятором та учасниками ринку. Регуляторні моделі ЄС, зокрема в Нідерландах і Бельгії, є хорошими взірцями інформаційних відносин між регулятором і учасниками ринку в частині наявних каналів комунікації, послідовності політики зв'язків з громадськістю та високої обізнаності широкого кола заінтересованих осіб про правила ринку. На протилежність поступовому розвитку правового регулювання та комунікації на сформованих ринках ЄС, Україна має запроваджувати реформи в прискореному ритмі. Транспозиція Україною правил ЄС до власної правової системи, однак, має бути пристосованою до обставин, аби така реформа була сталою. Ефективні зв'язки із заінтересованими особами, першочергово з учасниками ринку, має вирішальне значення для вкорінення у свідомість та правову культуру законодавства, регуляторних моделей та політик. Крім учасників ринку, важливими адресатами та респондентами комунікацій є національні урядові органи та міжнародні партнери України, тому НКЦПФР має опановувати найкращі практики з зовнішніх комунікацій, аби уникати непорозумінь та культурних конфліктів, через які може бути втрачено час чи матеріальну підтримку. Запровадження великої кількості положень законодавства ЄС вимагає оптимізації тих обмежених ресурсів, які є в розпорядженні НКЦПФР; ретельне довгострокове планування також допомагає уникнути колізій комплексної правової політики, чинної на ринку оптових енергетичних продуктів та ринку фінансових інструментів.*

Україна повинна застосувати ресурси у цільовий спосіб, себто вимірювана мета досягається покровою із оцінкою поступу після кожного здійсненого заходу. Такий підхід, з консультаціями та вимірюванням настроїв учасників ринку як до, так і після запроваджених змін, зміцнює довіру та заохочує ініціативу учасників ринку, відповідно до досвіду поступального характеру розвитку ринків у Нідерландах та Бельгії; де можливо, цю послідовність має бути пришвидшено відповідно до контрольних дат, погоджених Україною на шляху приєднання до Угоди про заснування ЄС. Канали стратегічної комунікації, включно з цільовими зустрічами та публічними звітами про регуляторну діяльність, урядування та ефективність роботи, як це роблять AFM та FSMA, канали в соціальних мережах, інформаційні бюлетені та публічні виступи – усі вони стали б ціннісними інструментами поширення важливої інформації, які підвищили б прозорість і довіру до українських ринків. Цікавим інструментом вимірювання якості міг би бути стандарт розкриття інформації в річному звіті НКЦПФР, який би наслідував структуру та глибину звітності публічного акціонерного товариства або перевищував би їх: таким є підхід AFM, який допомагає регулятору на власному досвіді оцінити час і роботу, необхідні учаснику ринку для дотримання вимог законодавства, на кшталт принципу «роби собі так, як ти хочеш, щоб інші чинили собі».

Ключові слова: регуляторна комунікація, ринкове урядування, енергетичні ринки, оптовий енергетичний продукт, Уповноважений орган з фінансових послуг і ринків, FSMA, Уповноважений орган з фінансових ринків, AFM, Національна комісія з цінних паперів та фондового ринку, НКЦПФР.