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FOREWORD

This book represents an extension and an upgrade of books from previous conferences “EMPLOYMENT, EDUCATION AND ENTREPRENEURSHIP“, in the field of marketing. If we recall, the book *Gender, IT and Marketing Issues in Entrepreneurship* was issued in 2013 and in 2014 *Management, Marketing and Communication: Current and Future Trends*. In this way, for several years already, we have been forming and expanding our database of researches in this field by developing the existing concepts and by enriching it with new aspects.

The book *Marketing, Business Law and Transformational Governance* is thematically divided into two sections.

The first part, *Marketing and Communication*, deals with issues related to marketing and communication. Researches in this part of the book explain marketing management, the instruments of the marketing-mix observed from different angles, communication with customers and concepts of creating long-term customer relations, social network and communication inside virtual teams.

The second part of the book, *Business & Legislation and Transformational Governance*, studies issues related to management, legislation and transformational governance. Researches in this part of the book tell us about the cooperative sector, patents and legal protection of technological inventions, as well as about the development of e-government in Serbia.

In the end, We would like to thank all authors who participated and sent works of good quality. We thank them for their contribution when it comes to the realization of this publication. This not only improved the quality of the publication but also the quality of the Conference itself. We would especially like to emphasize the participation of a great number of authors, both from our region and from other parts of the world. They made the Conference internationally significant. Therefore, We hope and expect that this publication will complement literature in the field of marketing, business law and transformational governance and that papers analyzed here will open new possibilities for further research and analyses related to the topic of this publication.

Doc. dr Zorana Nikitovic
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PART I
MARKETING AND COMMUNICATION



MARKETING MANAGEMENT - A VIEW ON CONTEMPORARY PRACTICE

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ABSTRACT

The problem and the phenomena of marketing organization and its effective and efficient controls, is a very significant challenge for economic theory and practice. Ambitiously set up research framework of this paper, has contributed to open a number of questions, dilemmas and challenges in this the area. Presentation and analysis of conventional and modern criteria and methods of organizing marketing and control instruments, have confirmed the indicated complexity, scope and importance of this problem. To this further contributed the fact that marketing, as a way of thinking, business philosophy, science and business paradigm, seems still to modestly draw into the pores of social and economic life, often more declarative and not sufficiently comprehensive.

Economic reality imposes the need for reviewing the phenomenon marketing organization and establishing an adequate control system over it, throughout the multidimensional prism of factors, relationships and influences, which on one hand represent frames, and on the other, provide a challenge for the economy and business. This is done, in a way that entire research is conceptualized in a unified whole, logically related and problem-directed.

Key words: *Organization, Control, Factors, Challenges*

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INTRODUCTION

In order to understand the mode of operation of enterprises, and observe the problems they face with, emphasis should be put on problems unknown to management today, and tomorrow will need to confront them. Understanding the real, deep problems, about which there is no consciousness today and currently, is necessary from the standpoint of future survival and growth. By placing new issues, we become discoverers of new views and approaches, new offerings and perspectives.

Successful companies, almost identical, have three areas perfectly harmonized over time. The first area is the belief of people about what it takes to succeed in their business. The second area is organization and structure of management in the organization - how do reward system, performance measurement, control of results, and use and transfer of information look like. The third are competencies and skills, as well as a range of mechanisms to create value added. All these categories have to be perfectly aligned with each other and firmly connected.

To cope with discontinuous change, it is necessary to detect quickly hazards and opportunities. In terms of discontinuity, enterprise must have both the flexibility to respond quickly in the short term, and focus on tasks that will bring positive results in the long run. The future of the company and its competitive advantage depends on the management role to predict the future, in order to timely bring new strategies according to new changed circumstances.

As enterprises inevitably, whether profit oriented or not, operate in conditions of real market environment, with all the elements of "imperfections" and demands for constant innovation, so the application of marketing and its importance are becoming greater every day, retroactively acting on the improvement of scientific postulates on which they are based, thus, this paper makes a contribution. Researches of this paper, theoretically justified, in the development and elaboration of particular levers marketing management, as one of the main conditions for the reduction of state intervention on the market, are providing the basis for establishing the basic directions and possibilities for designing micro control systems.

Business concept of marketing, as the driving force of change and innovation, is universally applicable in countries around the world, regardless of the state organization, political or social orientation, as profit-oriented so non-profit sector. Thus, the marketing is a leading instrument of successfulness of companies in North and South America, as well as in Eastern Europe, the former Soviet Union and more. The trend of globalization of business of major international companies, contributed to this practice. Marketing affects all consumers, stimulating demand for products and services, and on the other hand employs an army of experts who are working on developing new offer packages for products on the market and/or need to place on it. The concept of marketing, in lesser extent is defined by factors that can be determined and greater part is a result of skill and creativity of marketers, so the problem of defining final solutions of marketing organization, and the procedures and methods of its control, is complex and difficult process.

In practice, the actual role of marketing for many companies seems to be unclear. For many, marketing is 'considered to be most efficiently and effectively planned and implemented by a separate department' (Grönroos, 2006, 403). Following this view, many companies have developed the practice of treating marketing as a department and cost centre, while ignoring the value it would bring to the firm if it was regarded as an investment (Rust et al., 2004). The result often is that the influence of marketing within top management 'has been declining and the voice of the customer has become less important for corporate decision making' (Grönroos, 2006, 396). Webster Jr. (2005, 121) states that there is 'evidence that marketing has lost its importance and relevance as a management function in many companies'. Shaw, Kotler (2009, 19) similarly conclude that 'marketing is the least efficient process in business today'. However, this does not mean that the marketing process should be accompanied by lack of corrective actions. Researches in this paper were aimed at finding the right level of control processes, in relation to their absence and uncontrolled operation of marketing activities and business situation of too big administrative procedures in the business process of marketing. That is because each, in its own way, negatively affect on developing methods of managing business of economic entities in general, and the marketing management. By dealing with the original theoretical and empirical scientific information of marketing management and its conception of organization and control, as a profession, business and science, it is shown in the paper that only planned, organized, guided and controlled marketing occurs as a result of increasing the overall level of professional responsibilities of all personnel engaged in it.

Starting from the planning, as the most important phase of the marketing management process, managing organization and control of marketing, means to manage its implementation in business practice. System of managing marketing function is unbreakable bond of planning, organization and control. The practice and theory, it seems, was paid less attention to the control, compared to planning, and in particular to organizing. The reasons for that varied in character and as the most important stand out: under-development of theoretically based models, the perception that a large number of marketing activities is not suitable for submission to control procedures, the maintenance of traditional control methods, mostly accounting, some personnel problems and more. All this leads to reduced business efficiency, which, in the value chain, is transferred to the consumers, ie on holders of demand. Therefore, the state often, and increasingly, takes over the control function, the function of state administration in the economy. On the other hand, a high degree of administration in the economic milieu, in return reflects negatively on the development of methods of managing business, in general, and managing marketing and control, as its lever. Control is not and should not be just waiting for something to happen, it has to be dynamic and comprehensive, ie control should enable watching in the future from the future.

THE AIM AND PURPOSE OF RESEARCH OF BUSINESS PRACTICE IN MARKETING MANAGEMENT

Only recognizing and understanding changes in the environment, by looking at realistic chances for success in business, can extract company over the competition. The role of marketing is in early diagnosing opportunities and threats in the environment, in a situation where your actions can be influenced in a way to avoid threats and optimally exploit chances. The aim of research in this paper is, starting from the relevant literature and critical research of business practices, to review the importance and factors, and according to them, through insight into business practices, point out the key functions for the vitality of enterprises, through the effective and efficient accomplishment of company mission in market economy. In this sense, an effort was made to comprehend the connection between relevant factors, taking into account the basic principles of management and relevant indicators of successfulness, control and audit, and to create a conceptual framework for defining and implementing the organization and control as phases of marketing management. As such, this conceptual framework will include elements and connections between them, and the relevant premises for the optimal functioning of the organization and control as important connections of overall marketing management.

Implementation of marketing activities is conducted in a planned and organized manner. The role of marketing metrics is to monitor the performance of the compapani on those dimensions most critical to the strategy it has selected for exploiting its defferential advantage in creating, and capturing, value (Jameh Bozorgi, Dashtaki, 2014, 105-139). How much they have been applied in line with targets and methods defined by strategic alternatives, is a task of permanent control, as well as the need for quantifying and measuring business results. Of the considerations in formulating the marketing mix there is one element which is often neglected - people. This includes not only customer reaction to the marketing proposition, but also the service provided to the customer (Macunska Palevska, Badarovski, 2013, 97).

The social significance of the research is to demonstrate that implementation of marketing and marketing management, is helping large and small systems to modernize its appearance and identity on the market. For large systems, it is important that negative-monopoly image replace with positive image in the domestic environment and the region, and thus to increase their own efficiency, given that the effectiveness is socially recognized and evident. For small systems is important to find their market niche, and inside of it, in small frames, obtain all the attributes of large ones. Given the great resources invested in marketing, management is very interested in monitoring each cost that arises, as it often resorting the situation in practice that, if problem occurs in business, first intervention is reducing investments in marketing area. The effects of new challenges offered by modern economy are not yet fully recognized nor valued, but enterprises are forced to move forward, adapting their marketing activities, both on

strategic and on tactical level. Actuality and importance of marketing concept for a successful market economy attract attention and direct towards an attempt of contributing to a deeper analysis of the way of organizing marketing function in enterprise and its effective and efficient control. For the purposes of paper empirical research, the questionnaire for marketing-oriented companies was designed ambitiously and with great expectations. The questionnaire is planned to carry out on important economic sample of enterprises that have resources, image, personnel and reputation in the market of our country.

Control allows accessing marketing activities creatively, much broader and deeper than just the executive role, thus influencing and creating a better climate and working conditions, and actively participating in measures of improving business, better motivation and wider influence on decision-making. Control also allows a better partition of work and tasks on departments and individuals, both within the marketing sector and department, as well as in comparison to other functions, and their relationship with marketing department.

MARKETING AND CHALLENGES OF MODERN MARKET MOVEMENTS

In function of positive operating results, marketing must be managed adequately in a way that is seen as a process that initiates and directs marketing activities in order to meet the needs of citizens as consumers, the economy and society in products and services along with realization of profit. It is a dynamic process, because of changing conditions, both in the economy in which the company operates, as well as the resources in the company, so it is necessary to adapt the activities of marketing as a business function to changed environmental conditions and new business objectives. In market orientation of activities, a special role and importance for achieving profits, growth and stability of appearance and participation of enterprise in the market, has a management of marketing and the company, with all its possibilities and abilities to orient the organization of the company towards satisfying needs, desires and demands of customers. Managers and all employees, by accepting this concept, undertake to make changes in the internal access to the market, resources and environment, throughout an adequate attitude towards production, finance, research and development, human resources, and more.

The requirements of stakeholders (consumers, community, partners, and internal stakeholders) according to marketing are different, which affects a wide range of activities and processes that necessarily must be subject to control. Consumers are looking for the availability of proper and safe products, fair prices and truthful promotion; society demands that realization of marketing objectives do not jeopardize the objectives of society itself - respect for human rights, environmental protection, solidarity; capital owners require the creation of marketing mix that makes profit.

The modern concept of marketing seeks and requires consolidation, synchronization and coordination of activities relating to the company's operations. All marketing activities should contribute to economic efficiency and meet the needs of consumers, the economy and society. Successful organizations have also learned a valuable message of David Packard from Hewlett-Packard who once said, "Marketing is too important to be left to the organizational unit, sector, service, and department."

The marketing concept includes such management and running of the organization, which provides an accurate valorization and symbiosis of market, economic and broader social interests. In addition, one of the basic attributes of marketing is the timely ability to adapt changes that have occurred and demands of society and the market. In addition, one of the basic attributes of marketing is the timely ability to adapt changes that have occurred and demands of society and the market. Due to this characteristic, marketing is considered one of the instruments suitable and necessary for the implementation of necessary structural changes.

Marketing is one of the safest ways that company achieves growth in business. There are varieties of marketing methods that can be applied if an entrepreneur is planning rapid growth, slower growth, or survival in the market. In this way, marketing is satisfying different needs and desires of consumers. In order for companies to survive and thrive in the environment, they must adapt, understand changes in the environment, and be ready to answer them. The role of marketing, therefore, is to find, develop and generate profit from the various opportunities in the market, as well as to pull the maximum chances for business success from the various changes in the environment.

Marketing management represents the artistry and philosophy of choosing segmented part of market and the ability to win customers, gain and maintain their loyalty, because the value that business entity produces, has utility value that provides advantage over the competition. Marketing management refers to the application of marketing by marketer (company). It is the art of choosing target markets and building profitable customer relationships on selected market. Marketing management has the task of influencing the level, structure and composition of demand in a way that will help the organization in achieving its goals.

Many authors believe that the quality of marketing management in the future will be a crucial success factor of a company. Today, intensive changes in the environment require intensive work on improving existing and developing new methods and techniques of marketing management with an emphasis on control. Marketing management consists of activities directed towards finding the "market optimum", as the optimal connection between consumer interests and the interests of manufacturers, taking into consideration changes in the environment.

In order to evaluate its options, company should use the marketing information system. Here it is necessary to collect data continuously, both from the company and the environment, using the techniques and methods of marketing research. The purpose of market analysis and marketing environment is finding attractive opportunities for growth and development and avoid external threats.

Comprehensive understanding of market on which company sells is necessary, whether it is the market of final consumption or business market. Also is highly important to know the competitors and their strategies, to be able to predict their future business actions. Applying market segmentation will get conditions for the selection of target market, which will be a place for realization of company supply.

Marketing management enables establishment and nurturing strong relationships with customers, formation of strong corporate brands, which form recognizable market offers, and examining achieved results of marketing actions is creating quality basis for growth and development. Marketing management should be focused on adaptation of its own resources to market opportunities, by creating customer satisfaction with the realization of profit. In addition, all marketing activities must allow the realization of set goals and successful cooperation with other functions.

Conception of marketing means that the key factor in achieving organizational goals is greater efficiency than efficiency of competition, and that these objectives are achieved by integrated marketing activities, which are directed towards identifying and meeting the needs of consumers. Peter Drucker went so far to claim that only marketing and innovations bring profits, and everything else should be seen as costs. Profit is generated in the market and is created by products, labor, managers or employees. Only consumers are willing to pay the right price for a particular product or service. Therefore, marketing management means search and determine the balance between company and consumers in the market.

RESULTS OF EMPIRICAL RESEARCH

Actuality and importance of marketing concept for a successful market economy were focused an attempt of this paper in deeper analysis of marketing function position in enterprise and its effective and efficient control. In order to enrich the empirical practice, the questionnaire for marketing-oriented companies is defined ambitiously. The sample on which researches were conducted is an imposing list of fifty enterprises operating in the market of our country, with the long-standing practice, significant capital and human resources. For unknown reasons, some companies have not shown interest to be part of the sample of planned research, so conclusions are limited only on those enterprises that had the time and business "hearing" to respond to a specific business challenge, and the opportunity for "self check" and control, as author sees conceptualized research.

The reputation, experience and solutions of interviewed organizations in the field of marketing and business economics can certainly help better presentation and promotion of research problems. The survey was conducted taking into account the assumption that without the permission of enterprises, we will not have the opportunity to mention them individually, but they will be a part of overall confirmation and illustration for individual conclusions.

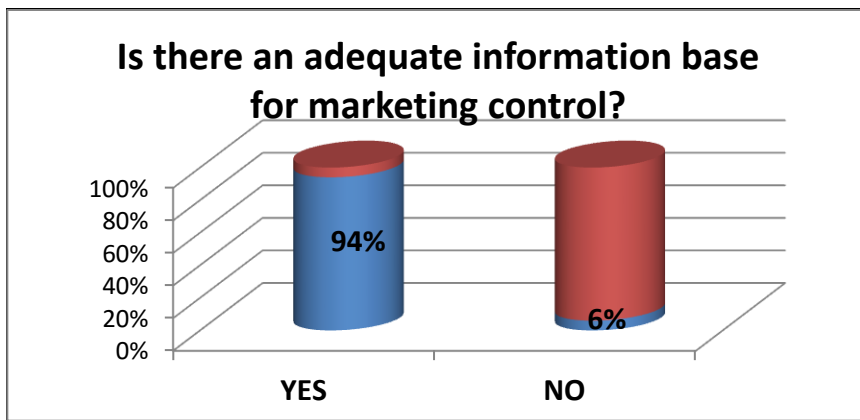
CONTENT OF QUESTIONNAIRE

- 1) Is there an adequate information base for marketing control in enterprise?
 - a) Yes.
 - b) No.
- 2) How do you plan marketing costs in the company?
 - a) As a percentage of planned turnover,
 - b) Based on projection of market share,
 - c) Modeled on investments of competition,
 - d) As a percentage of product selling price,
 - e)
- 3) What are the costs in enterprise involved in marketing, and how do they express?
- 4) How do you measure the effects of marketing?
 - a) Through the achieved sales,
 - b) Through the realized profits
 - c) Through the accomplished market share,
 - d)
- 5) What kind of control is carried out in the company?
 - a) Control of annual plan,
 - b) Control of profitability,
 - c) Control of effects of individual elements of marketing mix
 - d) Strategic control (audit).
- 6) How much is the marketing control involved in development of marketing plan?
 - a) Slightly,
 - b) Periodically,
 - c) Regularly, to the full extent.
- 7) What makes the most valuable item of Assets in your company?
- 8) Does your organization conduct marketing audit?
 - a) No
 - b) Yes

When?	Who is
implementing it?	
- Regularly	
.....	
- Depending on the circumstances	
.....	
-	
- 9) Explain the difference between the control and audit of marketing.

INTERPRETATION OF ACHIEVED RESULTS FROM THE SURVEY

1) 94% of enterprises believe there is an information basis for marketing control in the company, while only 6% of enterprises have opted for a negative response.



This result indicates a solid information base, which exists in surveyed companies, and is a necessary and needed condition for the existence of quality basis for monitoring and control of the entire marketing activity, as a function of business planning and decision-making.

2) The manner in which marketing costs are planned in the company is the answer to second question from the survey. The largest number of enterprises is planning marketing costs as a percentage of planned turnover (65%) that is based on projections of market share (29%). About 23% of respondents is comparing with competition when planning marketing costs, and about 6% as a percentage of the product-selling price.

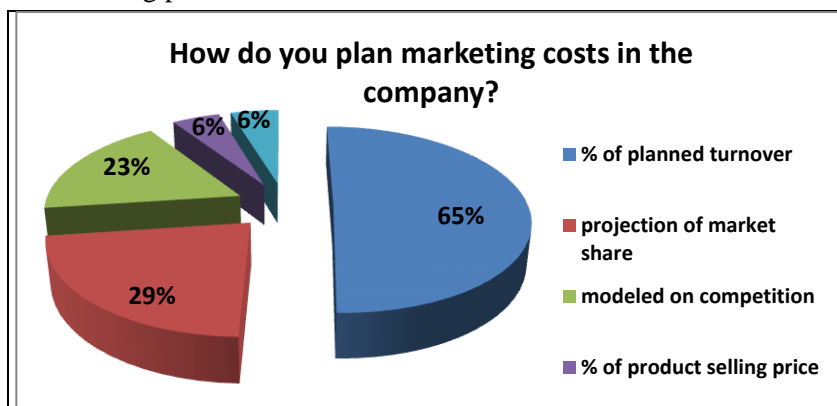


Figure 2: Method of planning marketing costs in the company

The largest number of enterprises is planning marketing costs as a percentage of planned turnover, because turnover is considered as best indicator of business success and the success of marketing application in the company. A frequent indicator used for marketing planning is projected market share, again for reasons outlined above. A bit surprising is relatively high percentage of looking up on the competition when it comes to planning marketing costs, although the positions in the market are different, strength and weakness, resources and potentials are different, and the fact is that something that is an opportunity for one company is often an insurmountable obstacle for others. More logical would be looking up on leader or the best in a branch; it would be an incentive for growth and development, and benefits long-term for all elements of enterprise business success.

3) When it comes to the content of costs, which are involved in marketing of company, and how they are expressed, by interviewing is obtained the following structure of responses. All respondents (100%), state that in their company, marketing costs are all costs related to advertising and propaganda (of goods and services for advertising, advertising consulting, media, printing and distribution of leaflets, preparation of TV and radio spots, indoor and outdoor advertising, etc.). They also include internal and external PR, the cost of "store branding", fairs, promotion in retail stores, and other forms of promotion.

Some companies, delve deeper into the essence of marketing, and in this category of costs classify design of creative solutions, direct selling costs, costs of expert associates, outsourcing and more. It is indicated that the second part of the question, which refers to defining ways in which marketing costs are expressed, companies did not essentially understand, or which would be very negative, do not have practice to express these costs separately. Only some solitary example of company, state that identified costs of marketing are expressed by specially defined items within the account plan.

4) In response to the question of choosing ways to measure the effect of marketing activities in company, the largest number of respondents, 53% stated they are following the effects of marketing through the achieved market share. Around 47% consider that achieved sale in selected market is an indication of the success of their marketing actions, and about 23% deem that is realized profit. It is interesting that very negligible number of companies noted increasing brand recognition in the market, as indicator that follows success of marketing, therefore, it is just about the exceptions. Very negative phenomenon represents the fact that in the context of its business, a small number of companies (below 6%), is not monitoring marketing or its impact. These are companies, which do not have established marketing department and do not plan marketing costs in its operations.

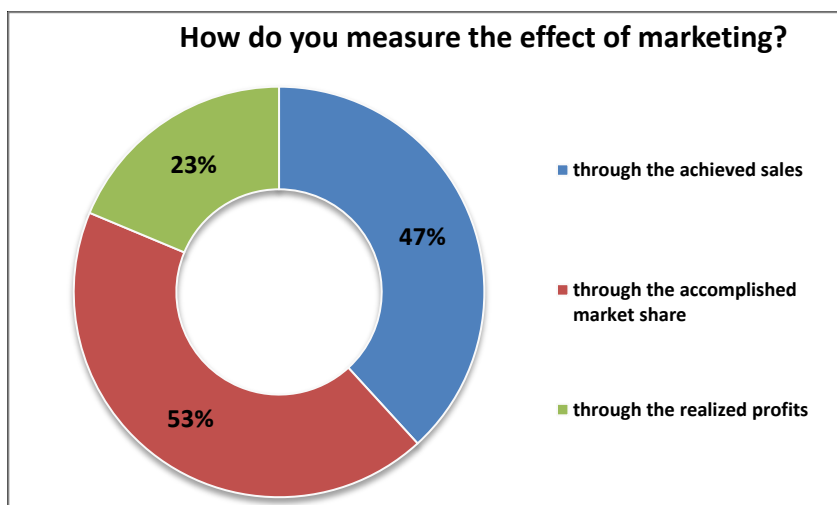


Figure 3: Measuring the effects of marketing in a company

5) The fifth question requested from respondents to specify the type of control implemented in a company. From the total number, 77% of companies are implementing control of annual plan, as a global planning document in enterprise. After that are following companies performing strategic control and audit of marketing (65%). The control of effects for individual elements of marketing mix is conduct by 59%, and control of profitability by 30%. This finding is the logical consequence of importance that plan and its elements have on enterprise business success or the fact that achievement of business results is the basis for growth, development and distribution. This question should be linked to the question number 9 in the questionnaire, which requires from the company to define the content and scope of control and audit, and where can be gain insight how enterprises understand the concept and content of marketing activities audit.

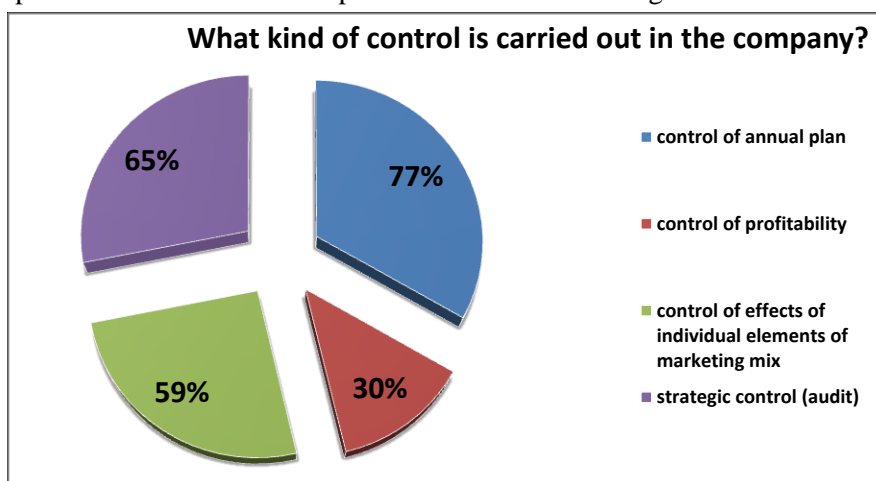


Figure 4: The type of control carried out in enterprise

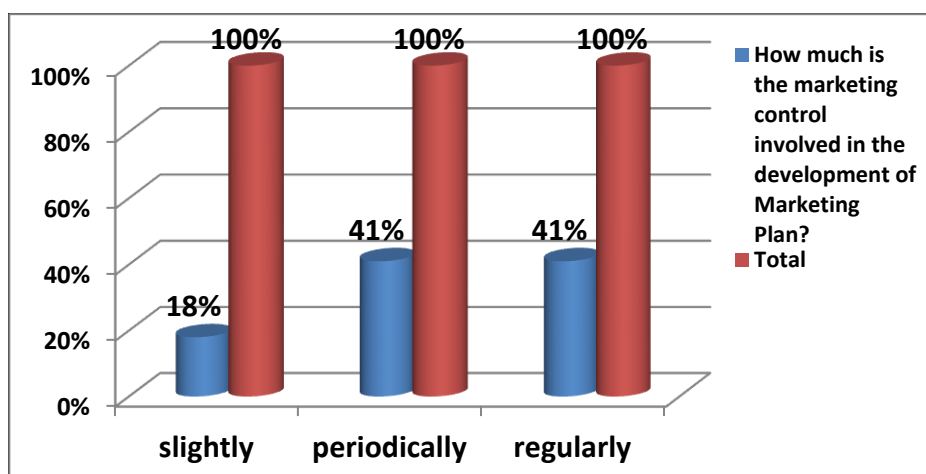


Figure 5: The effect of control on preparing marketing plan of enterprise

6) How much is the control of marketing involved in preparation of marketing plan, is question that provides an opportunity for surveyed companies to decide whether it is slightly, occasionally or regularly.

It appears that control has relatively weak influence on the development of marketing plans. Control results should represent a regular source of inputs and guidelines when it comes to defining planned indicators, as well as instruments of establishing places and holders of deviation from objectives defined in plan. Whether in case of periodical influence, is just about cases where control determines negative deviations that must be corrected in the following planning period, it cannot be claimed with certainty from the answers received. That would also represent narrow and insufficiently comprehensive view at powerful apparatus of marketing control system in the company. The percentage of 18 points, which reflects a slight impact of control, opens space to determine the causes of such phenomena, which certainly has a negative impact on enterprise business success.

7) When asked what makes the most valuable item of your Assets, 35% of respondents put emphasis on the so-called hard properties of the company: the equipment, property, plant, facilities and more. The human factor, its knowledge and skills, as "soft" feature of company, 30% of enterprises have accommodated in Assets and see it as its most important item. Some companies, primarily in the field of banking and financial operations, as their most important item consider credits, placements and capital (18%).

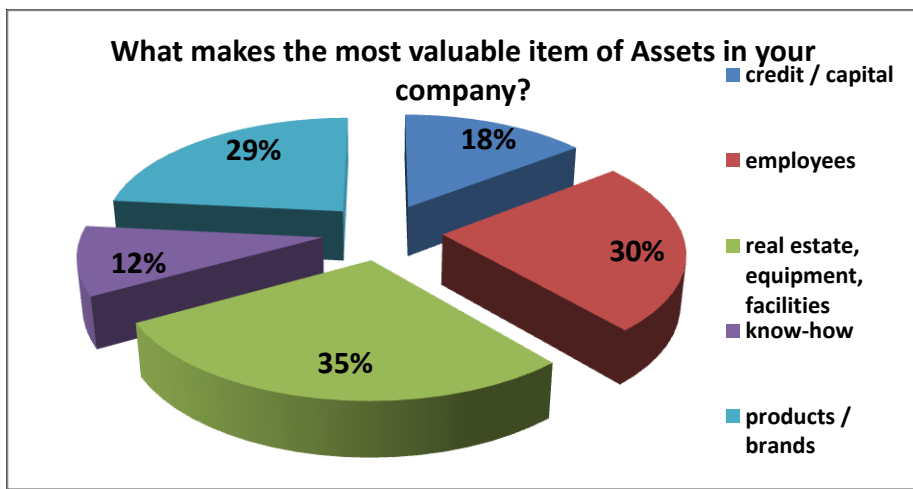


Figure 6: The most valuable item of enterprise Assets

8) Asked whether the company conducts an audit of marketing, 29% of surveyed enterprises gave a negative response, which leads to the conclusion that an audit is not used enough in business practice.

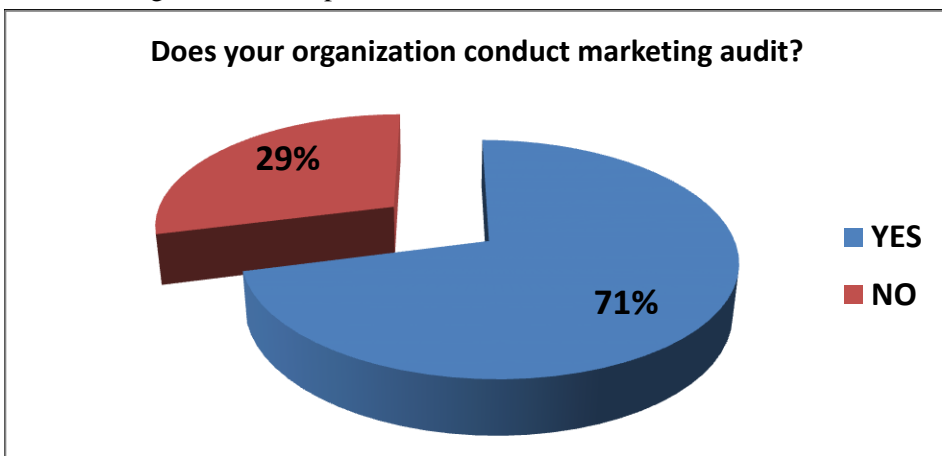


Figure 7: Percentage of enterprises that conduct marketing audit

Of all companies that perform audits of marketing, 25% said they do so regularly, by authorized auditing firms. Other enterprises fence, claiming they implement audit only according to the circumstances, and by the internal control in the company, controlling and auditing services, than marketing service or by the owner or chief executive. Employees in the marketing department conduct the audit instruments in 10% of surveyed enterprises.

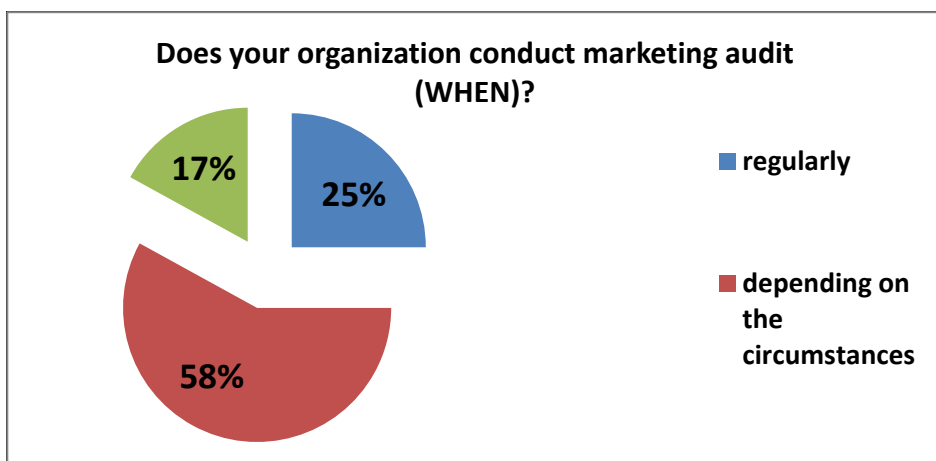


Figure 8: When do you conduct marketing audit?

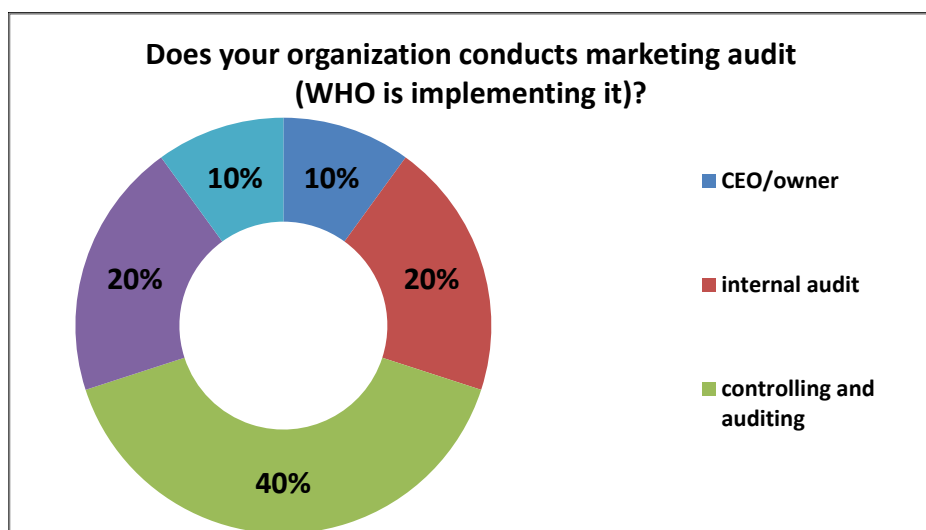


Figure 9: Who conducts marketing audit?

9) One of the essential questions for purpose of enriching the research and practice in the proposed paper was the idea that enterprises make a line of separation or difference between the control and audit of marketing. As a general conclusion, there is fact that control of marketing is well understood and per subjects determined in most enterprises (except for a few bad examples, where it is reduced to simple comparison of planned and realized, or is defined as an activity that only monitors operations). First of all, the control is seen as the verification of successfulness of marketing campaigns and actions, by taking corrective measures, as monitoring the fulfillment of set plans, and as an activity, that controls budget spending. Control is seen as a process of measurement and evaluation of set goals, a verification of achieving marketing plan and implementation of measures because

of defects, where clearly defined and measurable objectives are subject to control. It can be said that only exceptions look at control as a process, inseparably connected with the plan.

When it comes to marketing audit, there is an impression that enterprises do not realize the essential value of concept of marketing audit in business, its comprehensive character and strategic orientation. The audit is understood narrowly, mostly equated with strategic control of marketing, which evaluates the position of enterprise in the market, and its relationship with competition in branch. The greatest emphasis surveyed companies have placed on the legal attribute of audit and the fact that the audit includes company's operations in accordance with the law and it is carried out imposed by external authorities.

CONCLUSION

Marketing is a customer focus that permeates organizational functions and processes and is geared towards making promises through value proposition, enabling the fulfilment of individual expectations created by such promises and fulfilling such expectations through support to customers' value-generating processes, thereby supporting value creation in the firm's as well as its customers' and other stakeholders' processes. The control by itself is not the aim or purpose. Often understood as something imposed, negative, the activity that comes outside the enterprises, control loses its primary motive. The control process must be set and realized solely in management purposes, as a lever of creating business success. Control must be comprehensive and timely, with defined feedback regulating factor for set planned frameworks. Marketing controls, implemented and evaluated by an appropriate concept of organization, should be treated primarily as a form of controlling business performance of enterprises, but also imposes the need for a gradual theoretical research and practical introduction of internal system of control of corporate social responsibility.

Marketing controls must be focused on the evaluation of marketing activities, processes and performances in order to gain insight into the situation, problems and possible chances and opportunities for the implementation of business improvement for marketing sector of organization. Assessment of the effectiveness and efficiency of the marketing function is important in order to determine the optimal pricing policy and market suitability of products and services offered by the organization, and because of many other reasons, such as for example: selection of appropriate distribution strategy, introduction of new products and the like.

Cost management is among the key functions in a company, because costs ruthlessly affect business results. Speaking the language of finance, marketing is a cost. The cost the certainly should be analyzed and monitored. All with the aim of achieving cost-effectiveness and efficiency of total investment. In short, marketing costs are part of regular business activities that company uses to increase and improve sales, using all available media, tools and resources.

One gets the impression that control has relatively small impact on the development of marketing plan, in surveyed enterprises. Control results should represent a regular source of inputs and guidelines when it comes to defining planned indicators, as well as instruments of establishing places and holders of deviation from objectives defined in plan. Whether in case of periodical influence, is just about cases where control determines negative deviations that must be corrected in the following planning period, it cannot be claimed with certainty from the answers received. That would also represent narrow and insufficiently comprehensive view on powerful apparatus of marketing control system in the company. A high percentage of respondents, who opted for a slight impact of control, open space to determine the cause of such phenomena, which certainly has a negative impact on business success of enterprise.

As a general conclusion imposes the fact that control of marketing is well understood and per subjects determined in most enterprises (except for a few bad examples, where it is reduced to simple comparison of planned and realized, or is defined as an activity that only monitors operations). First of all, the control is seen as the verification of successfulness of marketing campaigns and actions, by taking corrective measures, as monitoring the fulfillment of set plans, and as an activity, that controls budget spending. Control is seen as a process of measurement and evaluation of set goals, a verification of achieving marketing plan and implementation of measures because of defects, where clearly defined and measurable objectives are subject to control. It can be said that only exceptions look at control as a process, inseparably connected with the plan.

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The flexibility and stability are the two main elements for management of changes, but at the same time, the foundation of creativity for marketing managers. Creative marketing manager will not panic facing new challenges and in new circumstances, but will deviate a little to visualize them in a new way. A successful business future requires a new way of thinking and a willingness to review the new responses. Marketing managers look at creativity as a major challenge that needs to use in a way to empower themselves first, and then those who are part of the organization, and wider.

To create a unique and propulsive system of organization and control is not a simple or easy job. Efficiently set organizational structure is a prerequisite for the implementation and realization of marketing plans. Wherever people, as holders of business activities, are organized in groups, there is a risk of poor quality of communication and conflicts.

For an organization to function as a cohesive environment, first it is necessary to set clear boundaries between individual activities and functions in the company, and then connect all the pieces into a unified whole that functions as a system in function of common goal. The system of connections and relationships that exist between some departments in the company, is a complex, intertwined, and multi-dimensional, and from the skill and knowledge of management depends how they will use the diversity and singularity, good sides and forces and connect them in an organism, which operates on the principle "all for one - one for all".

The goal of operational control of marketing is not control for control, but taking corrective actions in order to redefine planning decisions and marketing strategies. Learning on the basis of its own and other people's mistakes, is the essence of marketing management. There are no once given plans and programs, which are not inherent to changes, either under the influence of internal factors, either under the influence of environment. Information that control process brings are necessary for the adoption of everyday decisions, and those of strategic importance.

Control has to indicate the procedures which will be used as a corrective measure, and that will increase the profitability of enterprise. Analysis of profitability of individual segments of enterprises shows the relative profitability of different sales channels, products and product groups, market segments and more. Marketing management must analyze new alternatives, and according to information on profitability, providing by control activities, make marketing decisions.

The nature of corrective actions derives from the concept of marketing mix. The combination of the marketing mix elements on segments that require change, allows new way of appearance of enterprise in the market. Management can decide to undertake pricing strategy, or the strategy of reducing prices, as a measure, or to define special prices in accordance with orders of consumers. More intense economic propaganda, the various types of direct promotion and the like, are another type of corrective actions. More motivating sales potential on certain market segment may also prove to be a necessary alternative action. Not one factor of business can guarantee the success of the organization by itself. The plans reflecting the proclaimed goals, organizational structure clearly defined by powers and responsibilities, personnel qualification optimal and motivated into action, propulsive and flexible system of control and information, and more, are just some of the prerequisites for achieving business success of enterprise. Individually do not mean much, synergetic mean everything. The leader of organization is conducting and implementing managerial activities. His skills and expertise are precondition for successful implementation of strategy.

The picturesque show of leadership in the knowledge economy has given by Peter Drucker who compared business of organization manager to business of opera management. "Here are your stars and you can not give orders to them; you have an ensemble and orchestra; you have people who work behind the scenes, and you have an audience. Each of these groups is quite different. However, conductor of opera has a partitura and all the others have the same partitura. In company, you have to make sure that all different groups are approaching each other to produce desired result. This is key to understanding what lies ahead. It is not about who is

more or less important, but who is important for what. It is not about refraining from giving orders, but the need to know when you should give orders and when treat someone as a partner" (Drucker, 2012, pp. 70).

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LOCATION BASED SERVICES: IMPLICATIONS IN TOURISM MARKETING

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Mario Hak MSc⁴

ABSTRACT

This paper will analyze the usage of LBS services as a part of mobile marketing. Electronic marketing (e-marketing, telemarketing) you can achieve the company's marketing activities with intensive use of information and communication (Internet) technology. Mobile marketing goes a step further in using information and communication technologies. Location-based services (LBS) are Internet applications that include all marketing services linked to geographical location. This marketing concept is based on the localisation of people, services, objects and all attractions linked to a tourism destination and attraction. With the development of mobile communication, LBS have become a new models of communication and promotion in tourism marketing in Croatia.

Key words: *E-marketing, LBS, Tourism, Technology*

JEL Classification: *M31, L86*

UDC: *338.487:659.1*

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INTRODUCTION

Digital technology and the Internet have caused huge changes in tourism marketing and society in a very short time. Economic, political, cultural, economic and sociological discourses in recent years dominated by the term "information society", which as the central lever of development and life of society emphasizes networking and information sharing. From that date, and versions are being developed "knowledge society", "digital society", "e-society" or "creative society," sprang from "industrial society" or "modern" society, which is based no longer on the goods, than on services. It is in the above categories are classified tourist and catering industry, dominated by services, goods, or hybrid, while very few "pure" (material) products.

Recent market estimations suggest that future services for mobile Internet applications for nomadic users have a great potential – especially in terms of user penetration. Future higher bandwidth mobile networks like HSCSD (High-Speed Circuit-Switched Data), GPRS (General Packet Radio Service) and UMTS (Universal Mobile Telecommunications System) together with next generation smart phones and web-enabled PDAs (Personal Digital Assistants) will allow more acceptable services than today's –sometimes cumbersome –WAP (Wireless Application Protocol) services (Conrad, 2010).

With its interactivity, and possibilities of direct communication with the user, mobile marketing represents an enormous opportunity that recognize all types of organizations, especially in tourism. By integrating mobile technology into existing communication campaigns, companies allow their customers to take advantage of special offers, cash in mobile coupons, users can more easily obtain the additional information and have the ability to receive alerts about relevant events. Mobile marketing has enabled advertisers to create personalized multimedia campaigns for their tourist target groups, and users the ability to react or respond directly to the campaign.

This paper presents first of all what LBS are and how they can affect tourism marketing. Second, authors will research how LBS may be useful for all tourism services, particularly in promoting and suggesting any kind of local services. Finally some predictions and conclusions are drawn.

CHARACTERISTICS OF MOBILE MARKETING IN TOURISM

Mobile marketing is a set of practices that enables organizations and companies to communicate and engage with their consumers in an interactive and relevant manner through any mobile device or Internet network.

Mobile marketing is part of e-marketing. Electronic marketing (e-marketing, telemarketing) you can achieve the company's marketing activities with intensive use of information and communication (Internet) technology. Mobile marketing goes a step further in using information and communication technologies. Mobile Marketing Association defines mobile marketing as "the use of wireless media as

well as the integration of content delivery and direct response marketing communications transmission within the program or through a combination of independent media.

This development from mass media to personalized Internet communication can be considered the result of development and application of new technologies. The basic principles that connect integrated e-marketing communication and personalization of relationships with clients in tourism are:

- technology is an essential part of any tourism subject.
- tourists are becoming visually and technologically more literate and they expect the same
- from providers of tourist services.
- Internet technology affects marketing activities and relationships acting on communication
- and coordination between partners
- Internet technologies and systems make the basis for developing successful relationships.
- personalization of relationships enables great savings and reduces the need for subsequent
- corrections and adjustments.
- automation of e-communication decreases costs and reduces uncertainty and risk.
- technological innovations can not be ignored, but should be included in all aspects of marketing communication and relationship management
- all value creators benefit from e-marketing communication and relationship personalization.
- efficiency of relationship personalization increases in proportion with the use of technology (Baker, et al., 1998).

Other forms of e-marketing are more or less a hybrid solution in which the possibilities of e-marketing use in different ways and to varying extent depending on the type of business entity and the specific production and utility. However, it must be said that almost no serious economic entity that is not at least through the hotel web site included in marketing activities on the Internet. It is also important to emphasize the fact that the development of mobile communications technology comes to the expansion of mobile Internet, and thus to the development of m-commerce, where your space by economic logic gets the m-marketing (mobile marketing), which is to be largely mobile internet marketing. So the combination of power and speed of the Internet and geographical freedom of mobile telephony, there is a separate subspecies of the economy: m-economy in hospitality.

Mobile marketing is simply the process of marketing to clients via their mobile devices. This is really just an extension of internet marketing, as more and more people are starting to spend more time on their mobile devices and less time on their computers it was inevitable that the internet marketers would move into this form of marketing. There are a lot similarities between e-marketing and mobile marketing but there are also some pretty important differences. The main

difference is that it is much harder to get your ad in front of the client so you will need to be more innovative in your marketing planning and control. So, what makes mobile marketing for unique compared to other marketing channels, it is best to show the characteristics and dimensions of mobile marketing listed below, especially in scientific environment.

The expanding capabilities of mobile devices also enable new types of interactive marketing. New mobile marketing channels include:

- SMS (short message service): Advertisers in tourism can send relevant and short marketing messages;
- MMS (multi-media message service): Marketing messages that utilize multiple, rich media elements such as images, video and audio in tourism;
- Mobile Applications: apps are a efficient way to connect with tourists, as they can be easier to use than the mobile web. Some apps allow for adverts within the applications design too;
- Bluetooth Proximity Marketing: utilizes Bluetooth to connect with a marketers broadcasting station and station is programmed to automatically deliver content to the tourists's phone. It automatically authenticates its make and model and sends the social content;
- Location-Based Marketing: Delivers multi-media directly to the user of a mobile device dependent upon their geographical location via GPS technology;
- QR Codes(quick-response barcodes): Allows customers to quickly learn more about a tourism business, by visiting a mobile version of their business page on a mobile phone that is enabled to scan the bar code;
- PPC (Pay Per Call) Mobile Marketing: These are usually tourism advertisements that require the customer to perform a certain action like making a phone call usually with the provided number that the ad gives. If the customer makes a call to that number they are then billed;
- Voice Marketing: Voice broadcasting calls numbers from a computer managed list and plays a pre-recorded message to the tourist;
- Mobile Web: Having a mobile friendly version of your website is increasingly important as more and more people start to use their mobiles to search online;
- Mobile Banner Ads: Like standard tourism banner ads for desktop web pages but smaller to fit on mobile screens and work on the mobile content network (Rayfield, 2015).

Mobile marketing is an extension of Internet marketing, dependent largely on a form of permission-based marketing. In order to actively tourism market to a mobile device, a tourism company must first obtain the user's phone number, which can generally only be accomplished by requesting it as part of delivering a service or by promising rewards for subscribers. According to these new channels, there is a need to invest in new Internet technology and infrastructure. Mobile infrastructure is dependent on the device, the network provider and often the internet, what is shown on Figure 1.

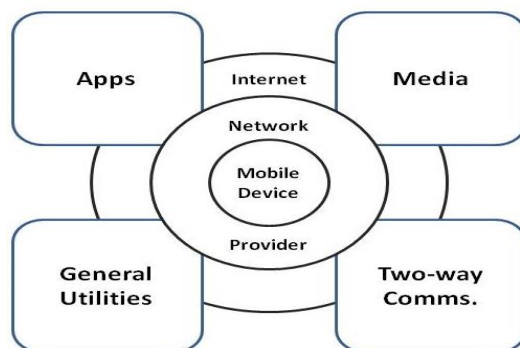


Figure 1: Mobile Infrastructure

When traditional media advertising and e-marketing are compared with m-marketing, several characteristics come up as limiting factors on the one hand, but a challenge on the other in tourism: ubiquity, convenience, localization, and personalization and interactivity above all. In the field of personalization, mobile marketing shows potential for personalization since every mobile terminal device is usually trackable to a user identity. Some specifics of mobile marketing communication are concentrated in Table 1.

Table 1: Mobile function and form

FUNCTION	FORM
A technology platform	The physical Mobile device and the communications network to which it is connected to reach the Internet – all ‘markets’ in their own right
The product or service that a consumer uses ‘locally’	Mobile runs local applications, utilities & a rich-media player
The product or service that a consumer uses ‘remotely’	Internet access, ‘Marketplaces’ e.g. iTunes, streamed media, geo-services, cloud storage, office functionality, social media
A route to market	Inbound: e-commerce, information & media retrieval device Outbound: a delivery channel, service & support tool
A two-way communications channel	For Consumers: Phone, SMS, video chat, e-mail, social media For Companies: Advertising, market research, PR, CRM, NPd
A general utility device	e-wallet, personal id, e-key, remote control device, 2-way geo-tracker, camera, video, compass, personal assistant, TV, media player, e-book reader etc.

Source: www.oxcomlearning.com/mod/.../view.php?id...1, 20.06.2015.

According to some authors, there is a special need for the development of marketing techniques based on collected user tourist profiles, history, behaviour and needs. On the other way, personalization based on user response enables the tracking of the exact location of the user, which is bound to affect the concerns of tourist users (Nysveen, Pedersen, 2005).

Respect the user choice and privacy is the most important factor influencing the campaign itself. Studies have shown that the user wants to be free I indicate when, where and what he wants to receive on your mobile device and that the permissions of users in positive correlation with the intention of accepting and using the tools of mobile marketing. At the end, we can say that tourism companies need to know how can get the most out of digital and mobile media to meet their marketing goals (Chaffey, Ellis-Chadwick, 2012).

MOBILE MARKETING IN TOURISM: STATE AND MARKET TRENDS

Excessive growth of the number of users of mobile communications, and the development of mobile networks and mobile devices have opened up new business opportunities. Recent statistics on mobile growth by region show sustained growth across all markets.

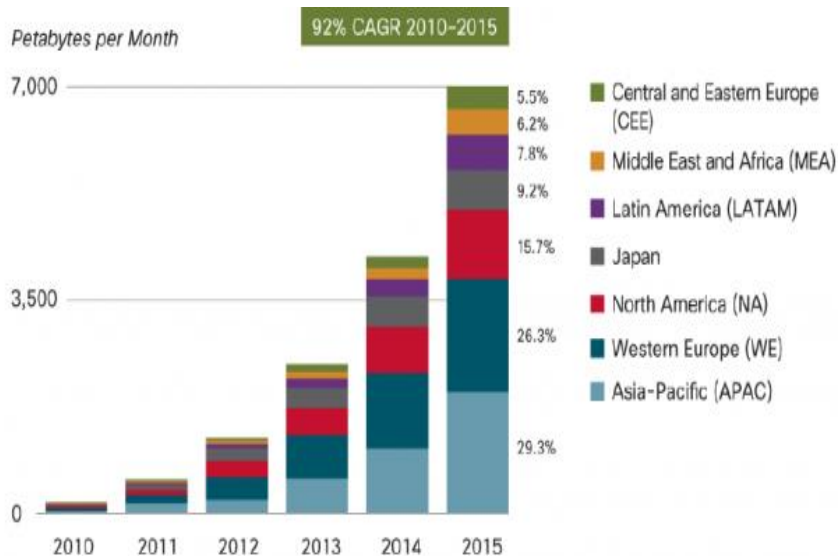


Figure 2: Global mobile data forecast by region

Source: <http://searchmobilecomputing.techtarget.com/definition/mobile-marketing>, 14.06.2015

Knowing that mobile communication can be used as a marketing channel, has changed the behavior of entrepreneurs and tourists. The first reaction to this new option was to send large volumes of marketing materials randomly selected users of mobile devices, so called- spam. Over time, tourism companies have found that the marketing of licensed users far more effective. Unlike the beginning, when it came down to SMS advertising, mobile marketing today involves far more marketing tools in tourism such as mobile advertising, coupons, entertainment, services based on location, mobile Internet, mobile banking and mobile commerce.

Mobile services available on mobile devices such as mobile phones, tablets and personal digital assistants are a suitable instrument for spontaneous, ad hoc access to information tourist need while being on the trip. The supply of mobile services with specific relevance to the tourist is already well developed on the market. Mobile services have a function to book last-minute trips, rental cars, and hotels; they provide information about changes and delays of flights and trains, and offer practical guides on restaurants, events, and sightseeing opportunities at the geographic destination.

Research study commissioned by Expedia from 2014 has shown that 94% of leisure travellers travel with a smartphone, with 97% of business travelers bringing at least one device on every trip. Mobile devices effectively serve as a concierge, guide and companion for travellers, who rely on smartphones and other mobile devices at every stage of their journey (Expedia, 2015).

The Google research report also finds 61% of all travelers start with using a search engine. And the search engines are tailoring the search results to correspond to the local intention shown by to tourism and leisure searchers. The Google Local Search results trigger the familiar maps with red pins and tailors the mobile search results to the searcher's intention (Hallam Internet, 2015).

LOCATION BASED APPLICATIONS: CLASSIFICATION AND EXAMPLES

LBS are applications of mobile technology that utilize the information about the geographical location of their user (tourist). The four primary functions of LBS for the traveler are: (1) localization of persons, objects, and places like tourist attractions, (2) routing between them, (3) search for tourist objects in proximity such as restaurants, shops, hotels, or sights, and (4) information about traveling conditions, such as traffic-related data and weather forecast.

Tools of the mobile marketing can be classified in two ways: by type of service and by the degree of involvement of user-customization.

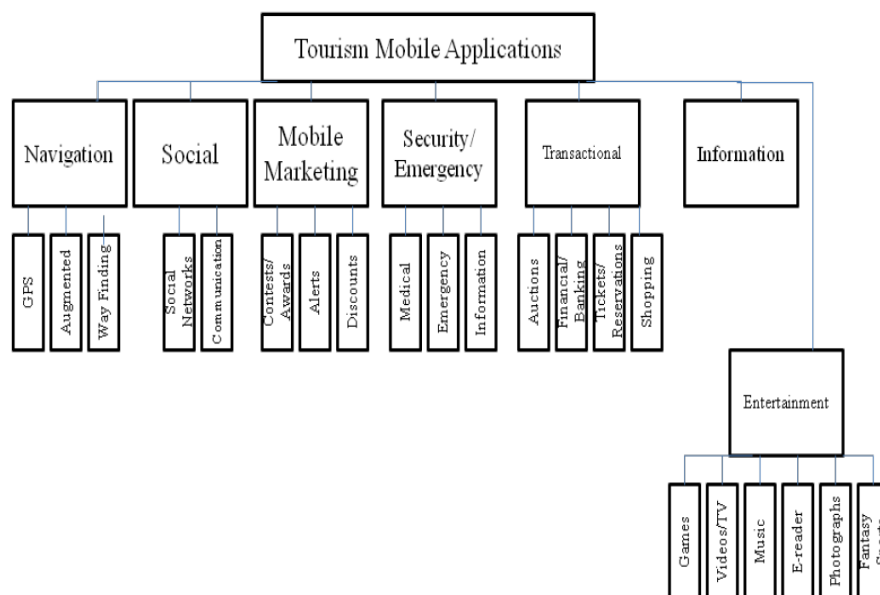


Figure 3: Tourism mobile applications

Source:

<http://ro.uow.edu.au/cgi/viewcontent.cgi?article=3559&context=commpapers>
20.06.2015.

The picture shows the classification of mobile applications in tourism by type of use. They can be classified into several categories. Mobile applications that are customized for navigation function aim to enable tourists to use the option of GPS, virtual reality and to find directions and objectives of the trip. The aim of this application is to provide also other useful information such as: the calculation of fuel consumption and trip distance, trip planning terms, sharing tips for trips, etc. As an example applications such as Google Maps, ViaMichelin, Tripomatic, Triplist, Foursquare, Around Me, Triplt, etc. can be mentioned. An example is set below.

The following types of mobile applications are themed social networks that serve the purpose of communication, information sharing and the creation of virtual network of users of the tourism and hospitality products and services. Namely, social networks and their mobile versions serve the purpose of communication in everyday life, and are applicable during the trip, when the tourists have a need to share information about their current place of residence, experience, culture, entertainment, food, music and other social topics regarding the tourist destination. As examples, the following applications may be cited: WhatsApp, Viber, Skype, Google Talk, AIM, Chaton, iMessage, etc.

The following in the series of promotional types of applications are applications that are used for marketing purposes of promoting individual tourism

and hospitality operators, tourist destinations, events and alike. All the above-mentioned applications have their additional promotional function; however, this group has this as its basic function. They are used for sending different information and promotional ads, create calls to tourist events, provide discounts and prizes and promote other forms of sales promotion. In this way Internet is used as a channel of promotion that creates a competitive advantage over other operators. The examples are: Gowalla, Tripadvisor, Facebook, Foursquare, mTrip etc.

Mobile applications that are tailored for safety and information functions are the following group in the given classification. Their aim is to help tourists when travelling and moving with a variety of tips related to health, medicine, aid in case of accidents on the road, weather forecasts, alerts, alarms, reminders, calendars, helpful hints, etc. As examples we can mention only a few: Ghetto Alert, UK Traffic App, Swiss Swimming Weather iPhone App, Earthquake App etc. The rapid pace of everyday life and the need for mobile payments have developed a new group of mobile tools that have transactional function in the tourism and hospitality industry. Therefore it is most commonly used for accommodation reservations or dates of use of services, auction purchase, ticket purchase, souvenirs or gifts purchase, money transfer, etc.

The next trend in mobile marketing is reflected in the increasing use of mobile social games, which are used in order to meet the consumers' leisure time and entertainment. Mobile games can be developed in the field of tourism, especially at the local or regional level. Therefore the new type of social activity "learning through play" (edutainment) appears in the tourism. As an example, a mobile game Venice Game (VeGame), can be mentioned, this aims to through quiz and entertainment, promote the sights of Venice. The concept was developed as part of the University of Genoa. The concept of mobile entertainment will be considered and subsequent chapters. (Cordis Europa, 2015)

Another classification of mobile applications is based on the study of the world organization International Federation for Information Technologies in Travel and Tourism (IFITT). It is listed in the following table.

Interactivity Type	Level of user interactivity	Sub-categories	Description	Example
Preferences	Medium	Medical	Local pharmacies, clinics, medicine reminders, advice, medical tourism	MediApp Korea
		Personal Taste	Translation, Unit converters, style of travel	Visit England
		Purchase	Area coupons/discounts	Living Social, Tourism Auction
		Health	Exercise tracking, pedometer	
Location Sensitive	Medium	Aug Reality	Camera Phone point & click	Discover Hong Kong
		Market Alerts	Local Text alerts	NYC in the Pocket
		Mapping	Finding	Easy Park, Near me Now
		RFID Tagging	Tags on Exhibits with further info	Xenagos
Security	Medium	Data Retrieval	Push/Pull	Email
		Access to Info	User choses public/private profile information	Social Networks
Control through Web	Medium		Frequent flier programs, e-books, e-banking, itinerary compilation	TripIt
Content Added	Low		Travel logs, blogs, medical diary, photography storage and editing	My Travel Log, Mosaic, Photopedia Heritage
Aesthetics	Low	Non-Gaming	Changing the appearance of the application to fit the users personal preferences for style, color, etc	
		Gaming		Grinwalk
Same for all	None		Navigation, texts, mapping, event schedules, weather, video	Weather Zone, Text plus

Figure 4: Mobile services classification

Source: www.ifitt.org/, 22.06.2015.

These classifications aim to identify the functions and types of mobile applications in tourism. However, the nature of the development of Internet and digital technology, the increase of the number of users and other mentioned trends constantly change and add new usable functions to mobile applications, in manner that these models in the future should continuously be updated.

FOURSQUARE AS MARKETING TOOL IN TOURISM

Foursquare is application for searching and discovery service mobile app which search results for its users-tourists. By taking into account the places a tourist goes, the things they have told the app that they like, and the other users whose advice they trust, Foursquare provides recommendations and tips of the tourist places to go around a user's current location.

Foursquare lets the user search for restaurants, nightlife spots, shops and other places of interest in their surrounding geographical area. It is also available to search other tourist areas by entering the name of a remote location. The mobile

app displays personalised recommendations based on the time of day, displaying food places in the morning, dinner places in the evening etc. Recommendations and tourist tips are personalised based on factors that include a users check-in history, their "Tastes" and their venue ratings (Wikipedia, 2015).

There are three models that tourism business can benefit from using Foursquare:

1. Increase your brand awareness and image of tourism destination - Your business may have already been listed on Foursquare without you having created it. Take control of your page and claim your business to give users an accurate perception with information that is up to date. Once your page is up and running, users gain easy access to the content you've created and a place to share their experiences by posting pictures and tips (think "tweets"). To increase brand awareness, create news, post updates to communicate any news, specials or upcoming events that will appear on the tourist's news feed. Updates should typically promote what makes your tourism business distinctive and interesting. Additionally, all business pages are automatically added to Foursquare's page gallery that promotes suggested and trending pages. This feature increases your page visibility and the potential to receive more "likes". Once you start using Foursquare, it is also a good idea to use a window cling or Foursquare logo on location to remind customers that they can check-in at your destination.
2. Create customer and brand loyalty - Reward your tourists and increase repeat business by offering a promotion when customers check-in at your tourist place. Promotion specials that are unique and exclusive to Foursquare users will attract new customers and reward the existing ones for visiting again. For example, a coffee house's "free drink or meal on your first visit" and "20% off your third visit" special will not only pique user's interest in visiting your location but encourage them to come back again. Creating special day promotions for your tourism business page also gives you the opportunity to think outside the box (not all promotions have to be a discount).
3. Gain insight on your customer demographics and behaviour - Once your location is claimed for your business page, Foursquare offers free analytics and statistics that allows you to discover who is visiting your tourism venue and how often. With this information, managers will be able to predict how many check-ins you're getting a week, how many users share their Foursquare posts on Facebook or Twitter and which customers are first timers or frequent flyers. Foursquare makes it even easier for you by sending a weekly email with highlighted activity on your page, including popular photos, videos and tips that tourists have made (Examiner, 2015).

People use Foursquare to check into locations they've visited by using the app on their mobile phones. Once they've checked into a location, it can be shared with their Foursquare friends, Facebook friends and Twitter followers. This is where

businesses in tourism on Foursquare benefit from being on the platform because users' friends see where they're checking in to eat, shop, work and more, which could possibly influence them to do the same based on the recommendations of their trusted connections. There are nearly 1,000,000 businesses on Foursquare currently, and it's your turn to leverage this network to build your customer base with new prospects and reward your most loyal customers all at once (Socialmediaexaminer, 2015).

Practical example will be shown on case of famous Croatian tourist destination: city of Dubrovnik. There is a big amount of tourist which usually use Internet and mobile services, so hotels from Dubrovnik opened their Foursquare social profiles.

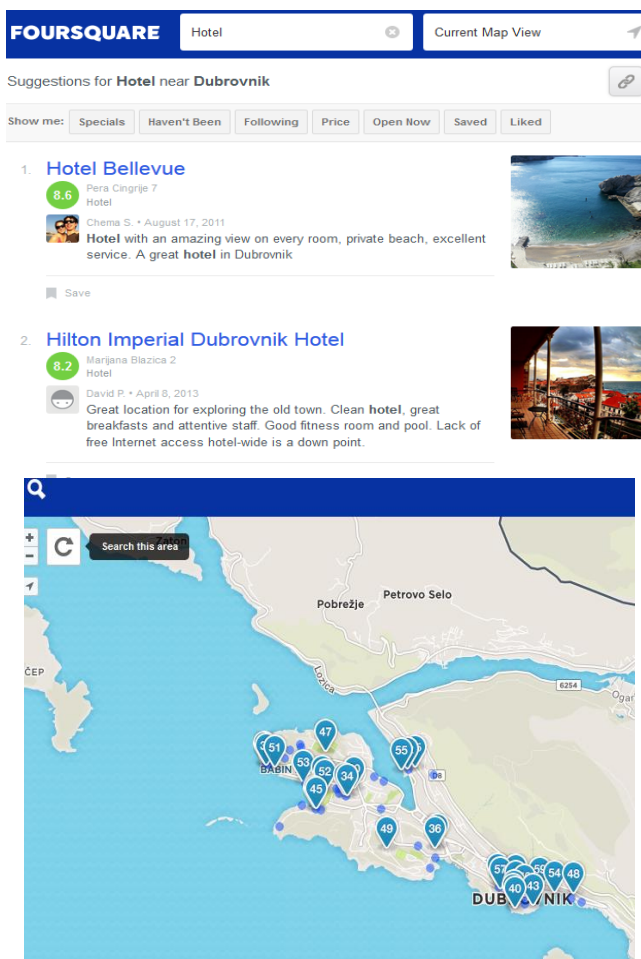


Figure 5: Location based service Foursquare

Source: www.foursquare.com, 23.06.2015.

The results show a significant number of hotels with opened profiles, which serve as place for sharing reviews, videos and pictures of their holiday. (n=56). Social networks and LBS generate social capital (produce useful information, personal connections, given the possibility of forming and organizing groups, allowing easy access to required information, etc.). Attitude is a constant positive or negative predisposition towards a person, tourist object, or situation. Create a group of tourists that connects users with the same or similar interests creates a communication, the relationship between the user and the object or situation that leads to data and information exchange on the basis that users will make their assessment. Hotel facilities and individuals within the group to express their fundamental values are directed towards each other pleasurable products and behaviors. In this way creates new knowledge that leads to modification of existing, or creating a whole new attitude in tourism. Based on the socialization of the online social network and mobile service, based on the actual motives, tourists create such a knowledge of the facility, individuals, or situations that enable them to maintain existing or create entirely new predisposition. Further researches and articles of authors will deal with collecting data about tourist experience with hotels using information from mobile service profiles of hotels in Croatia.

M- TRAVELLING: FUTURE OF TOURISM

Many applications are available for mobile devices and can be categorized by its purpose as entertainment, social web access, wealth and matches information, education and communications. Some of them are developed to provide information about a city or region, like business centers, parks, restaurants and historic places. These applications are starting a new use of mobile devices, we call m-Traveling. m-Traveling can be define as the use of applications developed to mobile devices to aim a person or a group of person during a tour in some place.

Besides the participation of beneficiaries experts we can cite several attractive features of m-travelling in tourism:

- Direct and immediate communication anytime and anywhere,
- Focus on target groups ,
- Inexpensive marketing channel ,
- Measurable effects for ROI ,
- Huge potential for viral marketing as they are prone to relay messages groups ,
- Easily integrates into the media mix with other media such as television, print, radio and the like.

Consumers and mobile marketing tools in tourism are available anytime and anywhere, transactions can be done 24 hours a day, 7 days a week. This offers huge opportunities to businesses access to consumers at critical moments, and users are,

on the other hand, waiting to perform the desired activity or to obtain the necessary information during the working week. Mobile devices in tourism enable the user logs easier segmentation, which in combination with the permission of users to participate in mobile marketing campaigns resulting in greater personalization of services and greater acceptance of and intention to use mobile marketing tools.

As follows, it is possible to propose some mobile and LBS apps which can be very useful in m-travelling.

Kayak provides a fast comparison of hundreds of travel sites on your tablet or smartphone. Some of the features include comparing flight, hotel and car rental deals; booking your accommodation; tracking flight status; managing itineraries and accessing airline numbers and airport info. Taking Google Maps with you is one of the best options to explore new places. Traffic updates, public transit, city tours with 360-degree street views, plus a voice-guided, turn-by-turn GPS navigation are merely some of the features this mobile app offers so you can navigate like a professional tourist. CityMaps2Go is app where tourist can pin your key locations as you pre-plan your route with CityMaps2Go. The app includes city guides for top cities (e.g. New York, Paris, London, Rome, Berlin etc.), offline maps, local tips from experts, millions of points of interest, and includes subway map (Lifehack, 2015).

GateGuru is another app designed to redefine the in-airport experience. Even for those of us who travel frequently, airline travel can make the most calm among us want to pull their hair out. You enter your itinerary and GateGuru connects the dots for you. Some of the relevant info a traveler can get are: airport food and amenity information customized to your arrival and departure terminal; airport weather; and airport maps and tips, which are useful in travel organization. GateGuru's iPhone app serves as a mobile directory for 100 different airports in the U.S. and Canada, and can help you avoid travel headaches, at least for the airport portion of your trip.

CONCLUSION

The rapid development of modern telecommunication and digital technology, and the resulting Internet technology, provides a number of new possibilities in e-marketing in hospitality environment. Mobile marketing is the process of marketing to the people via their mobile devices in tourism environment. This is really just an extension of internet marketing, as more and more, tourists are starting to spend more time on their mobile devices and less time on their computers it was inevitable that the internet marketers would move into this form of tourism marketing. It is possible to conclude that e-marketing, location based services and Web 2.0 usage will grow at a dramatic pace in tourism sector, especially mobile apps, and significantly impact on communication between hotels, tourism agencies and tourists in consumer decision process.

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SELECTION OF AN OPTIMAL PACKING OF GOODS

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ABSTRACT

Packaging has long surpassed its primary purpose - to protect the product on store shelves during transport and that preserving its basic characteristics. It now represents a link between producers and consumers and transmits the message to the customer by the producer woven into its design. Packaging is now considered spokesman manufacturers. What product should as much as possible to bring customers to them and uniqueness intrigued that the product compartment. The design can greatly affect the price of the finished product. The share of packaging in the retail price of a luxury product may amount to even 70 percent, while the food sold in supermarkets and more than 20 percent. As in the sea of similarity to choose a product that is needed? Research on the habits of consumers show that most of the purchases done on an also a part of the consumer chooses products to packaging design. Research conducted in the US showed that an average of ten products purchased seven purchases by habit- unplanned. This largely shows how packaging can attract consumers and what is its psychological power. In this paper, we investigated the role of packaging, the impact that packaging has on consumers themselves. The study identified significant differences in the opinions and needs of different groups of consumers, and the most notable differences in the impact of packaging on different group of consumers. Results of research conducted for this study, demonstrate the importance and significance of packaging in terms of increased competition and overcrowding shelves in shops and supermarkets. Packaging is becoming an important marketing tool and received a host of new tasks of attracting the attention of consumers and of describing products to the sales.

Key words: *The Importance of Packaging, Marketing Mix, Design, Product Roles*

JEL Classification: *L10, P46, M31*

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INTRODUCTION

The goal is the production of any goods to meet specific human needs. After completion of the production process, every product moves to phase transport, and in addition it is important that the product reaches the consumer in unaltered form, appearance, quality and composition. The place and time of manufacture usually do not coincide with the place and time of consumption, so it is very important (to meet the previous requirements) know the proper method of packaging individual products, the conditions of their storage, transportation and other manipulation. The packaging is a phase that includes a number of necessary operations, where the product is prepared for transport, storage, handling or delivery to the consumer. Packaging is the last time all the more notable as a significant part of the marketing strategy. This is due to its exceptional usefulness for consumer's decision to buy a particular product. Attractive packages are increasingly acting on people's decisions about the purchase. People are increasingly opting for products with unique packaging. The interest of many companies is to have a more original and functional product packaging, because such orientation to conquer a larger share of the market. The increasing importance of packaging in marketing, influenced by new materials, mass production, tourism, wide selection and distribution of similar products. The rapid development of hypermarkets and shopping centers have accelerated the process of packaging development functions from simple protection products to the promotional messages. Packaging of goods in the company has: production, marketing, usability and logistical function, but they are also the most important function of this part of the work process in the company. This paper investigated the role and the impact that packaging has on consumers themselves. It has been established a significant difference in the opinions and needs of different groups of consumers, and the most notable differences in the impact of packaging in different age groups of consumers.

THE IMPORTANCE OF PACKAGING

Packaging is all the more notable as an active element of product strategy in business marketing. The packaging is a phase that includes a number of necessary operations which the product is prepared for transport, storage, handling or delivery to the consumer. Packaging is an integral and final part of each production line, and aims to provide the final product safer handling, storage and transport to the customer, while the packaging is an inseparable part of the product and its role is to preserve the product, as well as to the best way to present the customer. The technology package of the product is of strategic importance for food manufacturers because it is essential for the competitiveness of products on the market. The advantage over other manufacturers can be achieved by adapting to the needs and desires of customers, opening new distribution channels, better quality of product appearance, reducing the cost of packaging, and thus the price of

the product, separation of products on the market (branding) and increasing the availability of products to customers. Once the package is seen as unimportant marketing instrument, however, thanks to the development of technology, tougher competition and increasingly demanding consumers, producers and sellers were forced to packing more and more improved in terms of basic functionality, with the coming and the emergence of new functions. Packaging today is the "silent seller of goods" and an important marketing instrument in attracting customers. Reducing costs in the supply chain must be carefully balanced between the basic technical requirements of the packaging to preserve the quality and safety of food and facilitate efficient distribution. Today, the appearance of the packaged product attaches great importance because the design of packaging materials and forms that creating and protecting the brand. Preserving achieved recognition, planners and designers include changes that lead to improving the ergonomic, functional and ecological properties of packaging. Manufacturers and distributors of food constantly strive financial cost-effective ways of packaging that meets all the desires and needs of consumers, the preservation of the health quality of food in the first place, while minimizing the impact of production and degradation of packaging on the environment. The challenge to achieve this are constantly stimulated by the adoption of new laws and political pressure. In general - tends to reduce the amount of packaging material and the amount of waste generated by them. In addition to traditional packaging materials, is increasingly talking about biodegradable materials produced from renewable raw materials that are easily degraded under the influence of environmental factors. In science, in recent years there is a trend developing biodegradable packaging that can satisfy all the needs of the product to preserve its quality and at the same time reducing environmental pollution.

In our research on this topic also work, but there are very few published data. In order to protect the product, ie. transported in a safe manner, stocked and delivered to the consumer, he must be placed in a particular court, cover or the like, or in appropriate packaging. The packaging is not only necessary to protect the product but an instrument which affects the sale of products, and can not be viewed in isolation from the marketing of the product mix. It becomes an integral part of the product, and it is necessary to be adapted to the requirements and needs of consumers. Hence the changes that are made must be programmed and adjusted to changes in the other instruments of the marketing mix. Packaging is subject to the control and audit of the marketing activities of the company. Change should be the result of market research whose purpose is to determine the reaction of sales channels and eventually the consumers (Milisavljević, 2007). We are witnesses to domestic products with tradition and continue to enjoy excellent sales, regardless of the outdated design of the package. They imposed their quality customers. Therefore, manufacturers strive to provide consumers with products in good package, which offer the best quality and price. The last few years have seen improvements in packaging design in Serbia, but the offer in the market shows that companies are either unaware that investing in packaging design is necessary, or because of the economic crisis, unable to afford a better package. With us you always thought that the quality package item that is costly and unnecessary, and

with an investment of several hundred euros, as in Serbia cost design, it is possible to greatly increase product sales and thus earn more. Producers who decide to do a new design of its products must understand that designers need to allow freedom in the creation and support of his idea. Here, the problem is that domestic manufacturers believe that the package is necessary lie. Thus, for example, you can see the cartons of orange juice a huge picture, which is strictly forbidden in the EU. Image on the package must correspond to the real situation, as it is in nature.

For experts in the field of designing and developing packaging materials and forms, the package price is only one item about which to worry. They have to technology, marketing, legal, logistical and environmental requirements that must be met. That should be taken to ensure that the materials used to make packaging can be recycled, and one of the EU directive requires that packaging for minimized. If some of the manufacturers want to export their goods, it is necessary to adapt the package to tradition, culture and language of the country of export. As in Serbia packaging design is still at a relatively low level, and bearing in mind that the economy of each country exporting essential in today's consumer society, it is imperative to produce more new goods and create as many of its consumers, ie. customers. The role of packaging is to communicate its content. Basic elements of communication are: the form of packaging, colors, graphic design as a whole texture of the material packaging.

Packaging targets the emotions of the potential buyer, who will in many cases before choose the product which the packaging is beautiful, unless there is a drastic difference in price or another reason why buying a product whose packaging is less attractive. The famous marketing expert Philip Kotler believes that packaging design should be included as the fifth element of the marketing mix, the fifth P (product, price, promotion, distribution and packaging).

Packaging is the last message that is transferred to the buyer before he makes a decision about whether to buy something or not. International Institute for packaging, gives the following definition: Any container, box, bottle, bag, tube or envelope which is to protect and storage of goods of various kinds of damage, maintenance of the product's communication with existing and potential customers, is the packing of goods (Cvetković, Marković, 2010). In contemporary marketing is increasingly emphasizes the importance of product packaging, as one of the primary activities and instruments of production mix, and therefore the majority of authors prevailing opinion that the bag is an essential component of product strategy. The concept of packaging is often identified with packaging. However, a large number of authors make a distinction between these two concepts. According to some, the packaging represents the technological process of placing the product in the packaging, closure and celebration of the packed product. Thus, the packaging process, and the packaging is part of the process. In any case, it must be borne in mind that this concept can not be sharply delineated and are often used interchangeably. Have you more beautiful, more original and functional product packaging, the desire and interest of many companies, because just such an orientation to "critical leap" in gaining a larger market share (Petrašinić, 2002).

EXCEPTIONAL VALUE DELIVERED FOR CONSUMERS

To offer value to consumers evaluated as a superior means to offer such a product or service, through which it is imbued with the high quality of all activities and processes applied in the process of its creation, in a way that arouses positive reactions creativity, meets the needs better than other products and delights its users . Delivering superior value to consumers does create such a marketing mix that all its elements causes satisfaction. Product quality, product image, the method of distribution, informed consumers about the product, the way of resolving complaints, customer relations, providing post-sales services, the price that the consumer pays for what he gets, corporate quality, packaging design, design, innovation, modernity, distinction of competition - everything is in any way connected and integrated into final product and makes the overall value to the consumer. The diffusion of technology and knowledge and their availability to companies and entrepreneurs as a result of creating products of the same or similar quality and features. Product differentiation is almost impossible without a broader perspective on the product, at least not in the long run. Therefore, it is necessary to find elements on which the company will be based in the identification of their products and differentiate it from competitors. Through these elements, as the sum of all its values creates a superior value.

Naked product is necessary to wrap and shape in a recognizable way, which produces only a small difference - customers are the only supplies a slightly different value. All this must be added the additional services that the buyer will get for the money you paid. He needs to turn and give him some before and after the sale. He needs to provide a guarantee and enable him to maintain. This company is a little away from the competition. What a value rounded is the image of the product. What makes it different from the other recognizable. What is in the minds of customers know when to read the inscription on the label. And it all makes full value. Only then is the value of something completely unique, distinctive and characteristic only for something, only then will customers be willing to pay for it (Kobilarov, 2010).

In order for organizations creating superior value for customers, you need the right orientation and method of organizational "thinking," It means:

- the creation of the offer is based on the market and the needs of the target group of consumers,
- to perform external and internal analysis in order to find appropriate strategies,
- to perform research needs and measures the degree of customer satisfaction,
- to understand the concept of the value chain, so that activities are coordinated and jointly create value,
- that quality management is integrated in all business segments and thereby contributes to the creation of superior value,
- the organization encourages innovation and facing the new knowledge,
- to understand customers as active enterprises and
- to develop a marketing relationship.

Creating superior value stems from the essence of competence and leads to competitive advantage of the organization. For consumers superior value means a particularly high level of satisfaction during and after use of the product. Savvy consumer creates positive associations organizations, and are more likely to repeat purchases. Consumers particularly irritated "misleading packing", ie. Packaging that their visual and textual features, the product shows a more beautiful light than it actually is (Quarterly Marketing Journal, 2002). Loyal consumers are part of the invisible assets of the organization - they are a source of profit, safety for the organization in the future, free of propaganda channel.

THE PACKAGING DESIGN MARKETING MIX

Marketing is defined as the planning and execution of ideas and development, pricing, marketing, promotion and distribution of ideas, goods, and services to enable exchanges that satisfy individual and organizational goals. As the business activity involved in the movement (flow) of goods from manufacturer to consumer, marketing involves advertising and packaging design, sale and sold out. As a material component of the company, the products grown economic value and satisfy the human need to employ physics resources (funds). With the constant development spending comes to an increase of the number of products and services. The average supermarket there are tens of thousands of different products that fill the gondola. Department stores, supermarkets, shops for certain goods (specialized stores), outlets and the Internet are all retail opportunities in these environments products are "alive" thanks to the package design. In fact products have become so inevitably intertwined in all aspects of our lives, so that they are no longer objects need, but desire. With the vast number of consumers, there is a competition between the products. Competition fosters the need for diversity of products. It has to be considered from the following point of view - without diverse packaging for all brands of different products - from bread, milk and vegetables to perfumes, lipsticks and alcoholic beverages - each product would look exactly the same. Different desires, motives and needs of consumers, influence various manifestations of demand for products. All heterogeneous demands of consumers, companies create a need for a clear definition of the target market. Be sure to vary the attitudes and requirements of consumers, depending on the type of product, but also by age, sex, social status, and even of lifestyles (Quarterly Marketing Journal, 2002). The largest number of companies, as their target group, targets young people, because consumers in those years, build brand loyalty. The population over sixteen years represent the fastest growing segment of the world population. Designing and packaging in general, the formulation of products for the elderly, require a completely different approach. The main difference is in the style of life. There are two fundamental requirements that designers and managers need to comply with the formulation of packaging is adequate presentation of information about the characteristics and use of products and product functionality.

Whatever it is, the manufacturer defines the approach to take advantage of what will sell his product and a race for a variety of products. In the ideal case, when packaging design provides consumers with clear and specific information (either consciously or subconsciously) and a comparison (which is shown as a more effective product, better values and standards), with a convincing package, buying was triggered. Whether planned or impulsive buying decisions, the appearance of product packaging is often the reason for selling the product. The ultimate goals - to highlight among competitors (competitors) in order to avoid consumer confusion and to influence the customer to buy the product - make packaging design critical factor in the success of the marketing plan of the company.

The role of packaging design and packaging as well as sales agents is most effective when the vendor identified needs or target group of consumers. Although companies want to sell the most products a large number of consumers, determining the "audience" provides a clear focus for the marketing of the product and its packaging design. Clearly defined "target market" - one in which they described values, the benefits of lifestyle and consumer habits - provides a framework that helps in determining the strategy and communication design suitable products.

The competition (competitive) retail arena, packaging design must visually that attract, stimulate interest and awareness and to influence the consumer's decision about buying - in a single moment. Therefore, the goal is to have a unique decisions that distinguish it as a product of a particular brand or manufacturer. For many brands, packaging design establishes categories of visual experience, so that competitors will look to their products have a similar look (Cvetković, 2010).

Packaging can hardly be a critical instrument positioning products in the marketing business, but contributes to the positioning of the producing property market. It is necessary to be coordinated with other instruments of the marketing mix of products and marketing mix, in order to achieve the desired position. Planning package of a new product should start in the product development phase and it is necessary to connect it with other visual aspects of the company and other instruments of marketing.

ENVIRONMENTAL ASPECTS OF PACKAGING

Civilization has brought a lot of problems, including a large amount of waste and pollutants. That is why today, justified, humanity worried for their own survival. The development of science, industry, transport, and greater food production, caused the change in the physical, chemical and biological properties of air, water, soil, food and everything that is in our environment and is an integral part of the environment. Environmental conditions in the world and in our country, it is extremely unsatisfactory and worrying. Pollution must be stopped and reduced to the extent that it can be controlled, and in order to protect the environment, the

company must set aside considerably more resources than before. If these measures are not taken, the consequences for humanity will be incalculable. Packaging industry, and other industries, has started to change the ways of the impact assessment of its products on the environment. In order to better positioning of products, manufacturers insist on packaging which is made from materials that are biologically corruptible and do not pollute the environment. Also, increasingly insist on savings in packaging material. In the computer industry, where weight, user and technical documentation exceeds the weight of the product itself and the periphery of the product, new packaging ideas tend to reduce waste to a minimum. The latest trend is a requirement of environmentally friendly packaging in the form of three "R" (Gligorijević, 2012). The fact is that a growing number of customers have environmental awareness and paying increasing attention to the problems of preserving the environment and rational use of the limited resources with which humanity has and which can be used as a criterion in product positioning of the company. It is obvious that customers are increasingly following environmental aspects of the products they buy and the environmental profile of the company you are dealing with and even are willing to pay for it. Guardians environmental protections were initially the only ones who are worried about the depletion of natural resources, the accumulation of waste and environmental pollution. These initially small movements (using the reporting of the scientific community and international media on the environmental disaster, oil spills, acid rain, the effect of "greenhouse gases", etc.), Received wide recognition and support, and it has contributed to the development of environmental awareness of consumers. Numerous studies have shown that many consumers consider the environmental aspects of the purchase, consumption and disposal of products. Recent research shows a direct relationship between the ability to develop and implement strategies that are not harmful to the environment. As the understanding of the dynamics and expectations of customers request basis for the creation of a competitive marketing strategy, it is essential that companies react to these customer needs. According to a European study, consumers are willing to pay more for "physical products". Organic positioning is based on building a green image, which is based on ecological products are safe to use and disposal (the concept of the planned decomposition products), organic production and packaging of products, the use of recycled materials, less consumption of materials and energy, etc. When environmental positioning, it is necessary to "green" way of thinking or an integral approach to the problem of environmental protection. This approach includes the development of green products from the stage of research and development, to product launch on the market.

Examples of green companies are 3M, Mercedes, Nike, Nokia, Sony Ericsson, Apple, etc. Organic product positioning as the basis of positioning strategy is more present in consumer goods, but as a basic element of amendments positioning strategy (high quality, innovation, service leaders, etc.), It is present in the marketing business. Many companies have responded differently to the wave of "green marketing". Some companies have ignored the problem, what is the long term effect on the distortion of the image and its market share. Pro-green companies are really dedicated to the movement for the protection of the

environment (provided funds for the campaign sponsors are environmental events and immediately react to environmental themes). Waste management and its regulation is one of the biggest tasks today. It is necessary to develop methods of dismantling and reclamation of already used products. Logistics must include collection system that is effective and efficient (for example - manufacturers of computers, redesign computers so that the execution of components which quickly become obsolete, can be solved by replacing the newer version, and all it does not generate waste. Companies like IBM are no longer fluorocarbons uses that destroy the ozone layer, and then, several American and European car manufacturers, installed new air conditioners in which chlorofluorocarbons does not go into the atmosphere, but also continuously circulated and re-used (Gligorijević, 2012).

TYPES OF PACKAGING

In order to deliver the goods to consumers, respectively, in order to protect and securely transported to it and easily handled without danger, it must be placed in a specific court, the cover, the frame or material, ie. in certain packaging. For many consumer products, packaging is a crucial factor in the standings, but on the occasion that the importance of user-friendly packaging for a modern economy. Packing increases the cost of merchandise due to consumption of materials, equipment and labor. The share of packaging increases the cost of merchandise due to consumption of materials, equipment and labor. The share of packaging in the retail price of the product can reach over 50%, and some luxury goods to 70%. On the share packages in the selling price is influenced by many factors: the production process equipment, material for packaging, packaging size, the level of consumption and demand on the market. The selling price of a product entering more and costs of transport, storage, various manipulations, as well as the shape, size, strength, weight and volume of packaging. This means that before the pack sets out the conditions: to protect goods, that is as cheap as possible, it is more easily (for transport), to facilitate handling, it has a standard shape and quality that is attractive, that is resistant to physical and chemical influences Goods and atmosphere, to be or not to be permeable to air, moisture, odors and the like.

THE DIVISION OF THE PACKAGING MATERIAL OF WHICH IS MADE

Packs of securities representing more than half of the total amount of material in the world for the manufacture of packaging. Basic materials for packaging of paper are: materials mainly made from waste paper, paper made from cellulose (kraft or kraft paper), parchment paper, crepe paper, chrome paper, reinforced paper.

Materials made of waste paper are used only for the barest protection product from dirt and damage. From gray jacket (šrenc securities) which is obtained exclusively from the less valuable unsorted waste paper, make the sacks and bags for fruit and vegetables.

Cellulosic securities are firmer and more beautiful appearance, and are used for sensitive and expensive items as wrapping paper for groceries (for packing rolls) and wood-free paper packaging colonial goods Coffee, tea, rice, etc.). As a wrapping paper, in the case of special requirements in terms of strength and for the manufacture of paper bags, used kraft (kraft) paper that is getting special sulphate process, also used for making bags and corrugated cardboard. If required for fat stock impervious, then the pulp paper was treated with sulfuric acid to give the parchment paper, which is used for food packaging.

For packaging irregular products when the paper has to adapt to the form of the product or when the inevitable minor deformation of the package, is used crepe paper. For multicolored (eg. For chocolate, cigarettes and labels) are used so-called. chromo paper whose surfaces are coated, coated fillers and binders. Paper impermeable to moisture, steam and aroma is obtained by coating emulsions or solutions of waxes and paraffin. In a similar manner can be prepared by powder-coated paper by applying a thin layer of plastic, polyethylene or polyvinyl chloride. These combinations have proven to be very suitable for bulk packaging.

In cases where we want to achieve greater strength paper is used, the reinforced paper. Serve as reinforcement fiber cotton, glass, nylon (depending on the stresses to which the securities will be subject). This paper is used for packaging, and building insulation.

The most common commercial forms of packaging paper are: transport bags and bags. Transport bags of paper are made by stitching or gluing of special solid Knaf securities. They can be produced from one or more layers of paper. Sometimes the use of paper of different weights, and often combined with layers of melamine paper or a metal foil, ie. plastics. Application bag in a transportation package is very large. Most consumers bag are: building materials industry, the industry of precious products (flour, sugar, animal feed, vegetables), the industry of fertilizers and other chemical products (paints, varnishes, detergents, pesticides, etc.). Bags are made of various kinds of paper for packaging, and today it is increasingly used in packing bags of cellophane and plastics primarily by manufacturers of goods in the stores with self-service.

Cardboard and corrugated cardboard is different from the paper by weight. Of all the materials for packaging, corrugated cardboard has experienced the largest growth. The above-mentioned material, number of layers and their types are combined according to load requirements. VICE used form of carton boxes. They are used for the commercial packing a large number of products, acesta and to replace wooden crates. The boxes are produced in large quantities of various shapes and sizes.

Glass packaging and the use of glass as a packaging material based on its high chemical resistance, resistance to atmospheric conditions, transparency, good design skills and a solid raw material base. As transport packages occurs in the form of

account information balloons, bottles, crates or frames. As commercial packages used for small glass products for the pharmaceutical and cosmetics industry. Glass packaging can be feedback (especially beer bottle). Glass for the production of packaging can be transparent or colored. Coloured glass is used to prevent the adverse impact of ultraviolet rays or for decorative reasons. Glass containers are sterilized (when full pasteurized products), and must be resistant to sudden changes in temperature that occur during pasteurisation or sterilization. These packages have drawbacks such as fragility, brittleness, high density, complicated package and is relatively expensive.

Packs of plastics may be as light as packs of paper, a porous and impermeable to gases and vapors as glass packaging (although there are plastic materials that do not leak gas and aroma, and permeable to water vapor). Insects do not attack the plastic materials to feed them (as a paper), plastic materials are resistant to chemicals and atmospheric conditions, the surface is smooth and can be well colored. The mechanical properties of the needs may be different from soft and flexible to hard and tough. Products packed this packaging can be completely closed in order to protect from dust, water and others. Some of these materials may be applied in the temperature range from -60% to 200%. They are used in a variety of forms, and the main form of packaging is foil. Foil is an essential component of most complex packaging material, in addition to films of plastics are produced bottles and vessels for liquids of different sizes and shapes, dishes for solid and semi-liquid materials, boxes, balloons, tubes, etc.

Metal packages are used because of its good physical and mechanical properties, and goods that are packed in these packages can very well to withstand all kinds of manipulation without damage. The lack of metal packaging is insufficient chemical resistance due to the susceptibility of nearly all technical metal corrosion. To create metal packaging commonly used: steel, aluminum, lead and tin. The most famous form of metal packaging cans are constructed in the most of the protein sheet, cold-rolled strips and aluminum. Tin cans used for canning food products. Cans must be hermetically sealed in order to prevent the penetration of micro-organisms and air. Metal tubes are used in various industries, cosmetics, chemical industry, pharmacy and food industry.

Wooden packages are the first type of modern packaging. Wood is one of the oldest packaging materials. As the wooden packaging dysfunctional, they are now replaced with lighter material (cardboard), which has the advantage of low weight, which is very important when it comes to transport costs. Properties of wooden packages depend largely on the type of wood from which it is made. From the point of packing the most important properties of wood are its flexural strength and impact resistance. For the production of wooden packaging used semi-mechanical wood processing: lumber, softwood (especially food), various some sawmills (beech and poplar), veneers, plywood and others. There are a large number of crates in order by size, and shape: without cover, with cover, to enter into some kind of special crates. For transport and storage of liquid and semi-liquid materials used barrels. Oak barrels are the most appropriate when it comes to aging alcoholic drinks, while the transport of solid materials used fir, spruce and beech. Here, the high share of wooden packaging in the structure of production and consumption of

packaging, while in developed countries it considerably less (below 2%). A large number of standards for wood packaging - with us is even 115 (out of 311 in the area of packaging), of which almost half older than 25 years.

Textile packaging used to enhance the protection of packaged materials, simplify the packaging process and improve the appearance of the package. Textile materials are often combined with other materials in the form of a laminate. Such conjoint layered material according to need, is impregnated for water resistance, for the purpose of resistance to mold and in order to reduce flammability. Textile fabrics are used mainly for making bags, as bale wrappers and covers for protection of goods in transport and storage. Bags are mostly made of fabric while tarpaulins made of heavier fabric flax and hemp.

The complex package: No to mention the material used in the preparation of the package is not ideal for its properties and free from defects. Modern looking good packaging solutions and materials are placed very high demands. For this reason, combinations of various materials or a complex compound obtained package. Along with the emergence of complex packages have emerged and their forms and systems of packaging that the production and use differ from classical. Their number is constantly increasing. The names of these packages and packaging systems were created depending on the types and forms of packaging, function, material names, uses, etc.. Better known systems are: Tetra-pak, Dou-turn, Hur-pak, tetra-brik, Pure-pak, Bi-turn, Vakufin and others (<http://www.komercijalno-poznavanje-robe/ambalaza.html>).

TYPES OF PACKAGING BY TYPE OF PRODUCT TO BE PACKED

According to the type of product to be packaged, the package can be divided into: packaging for food products, packaging for chemical products, packaging for pharmaceutical products and packaging for cosmetic products.

Packages for food products are mostly made of paper and foil materials, which through such materials can gain insight or impression on the amount of food that is packed, as it should be enabled to see what really is in the package. These packages are short-lived life, as we have already mentioned, because they themselves have no food products a longer shelf life of 18 months. Stand up here exempting canned foods because these foods have special Packaging of standards, and such foods are used long-term packages have to keep the product fresh for at least 5 years.

Packaging for packaging and storage of food products has further to meet the stringent and specific requirements, as it must for a shorter or longer period of time to preserve the initial quality of fresh or processed foods. At the same time, it must be safe in order to avoid contamination of food substances from packaging and thereby endanger the health of consumers. Therefore, the selection of appropriate packaging material for a particular type of food, one of the leading problems of the food industry. Packaging for food products has experienced its biggest boom in the second half of the twentieth century. The reason is not only the discovery of new packaging materials but also increased food production due to population growth,

increasing the degree of urbanization, lifestyle changes due to increasing employment, which requires easier and quicker way of preparing food, pronounced hygienic habits of the population, etc. To achieve all this, the packaging and food packaging are now regulated by a number of laws, regulations, guidelines and instructions for use. The importance of packaging and packaging food products in contemporary society can be summarized through the following requirements:

- prevention or reduction in product damage and spoilage, thereby saving energy and vital nutrients and protect the health of consumers,
- reduction of urban and municipal waste using the functional form of packaging, recycling of packaging materials and the use of certain types of waste to produce animal feed or fertilizer,
- reducing the price of many types of foods using less expensive packaging materials, their mass production and improving the distribution system due to economical packaging forms,
- reduce the risk of forgery,
- presenting food in a hygienic and aesthetically attractive way,
- communicate with the consumer through packaging that enable him to be informed about what they buy and to thus take a decision on the purchase,
- facilitate the manipulation and use of products using more convenient form of packaging, which saves time,
- increase the competitiveness of products on the market,
- availability of products from all over the world, throughout the year,
- extending the shelf life of the product, which reduces the amount of waste,
- energy saving through the use of packaging material that does not require refrigeration or freezing of products during distribution and storage.

Selection of adequate packaging materials requires good knowledge of the properties of the product and its specific requirements, as well as knowledge of the properties of the materials themselves and packing process (<https://www.tehnologijahrane.com/ambalaza-za-pakovanje-hrane>).

Packages for chemical products are mostly plastic and glass materials, where nowadays most of the manufacturers of the chemical industry resorts to containers of plastic for easy and secure transport and storage. In addition, chemical products have a certain type of plastic packaging that is different from the thinner plastic packaging and must be packed in this kind of plastic, because of the harmful properties of chemical products.

Packaging for pharmaceutical products are mainly glass material or a combination of aluminum-plastic that protects the products in the form of powder. It avoids the use of paper packaging as they are not adequate for keeping ingredients of pharmaceutical products.

Packaging for cosmetic products are generally of the most interesting and diverse materials, where cosmetic products are packed in plastic, glass and metal packaging of various shapes and sizes. Cosmetic products have to remain in a state of usability at least 6 and a maximum of 18 months, and is used for such products packaging design solutions fleeting life.

DISTRIBUTION OF PACKAGES BY PURPOSE

According to the purpose of packaging are divided into transport and commercial packaging.

Transport packages are used for common packaging units smaller loads or the individual packing heavy loads for transport to the place of use or logistic. It during transport or manipulations of unloading, loading, storage, protect goods from damage, protects other goods, means of transport and persons who will operate it.

In relation to the goods, transport packages are divided into external and internal.

The outer packaging should provide complete protection product from mechanical damage, loss and theft. The outer packaging include: various types of containers, wooden and metal boxes, cardboard boxes, baskets, etc..

Indoors packaging protect goods from moisture, fault and other changes caused by the influence of the environment. In the case of consumer goods, it has been packed in commercial packaging, and as such goes directly into the container. Products such as machinery, apparatus, parts and various other materials for reproduction, have external and internal packaging. Certain products (fresh fruits, vegetables, cereals, a variety of liquids, etc.) Are packed in transport package. If these products are sold to retailers, they later repackaged in a commercial package.

Commercial packaging used for packing goods in small quantities, direct to the consumer needs. It protects the product, guaranteeing its similarity and provide written notice to consumers about the type of goods, its composition, method of use and price. The product is packaged in a variety of forms, such as bags, boxes, bottles, cans, aero-sol dispensers and tubes of various materials (paper, cardboard, cellophane, plastic, glass, metal, wood and textiles). Advantages of commercial packages are in an accelerated turnover and enhanced security of goods.

CHOICE OF PACKAGING OF GOODS

Since the package has multiple functions, the definition and selection of the optimal packaging should be handled by a team of experts to its competence covering all functions of the packaging. Decisions relating to the packaging, or packaging of the product refers to the choice of a number of commercial elements such as: size, shape, material, color, graphics, text and trademarks (Hanić, 2005). In the process of defining and selecting the packaging, it should first of all make a list of requirements that packaging should meet in the manufacture, marketing and logistics. After that determines the costs related to the individual characteristics of the packaging which it meets defined requirements. Since the planned packaging costs usually determined as a percentage of the sales price to the requirements that the package should meet in different functions, each competitive. Starting from the defined requirements and estimated costs of making the package, determined by a

number of alternative solutions. The optimal solution would be one that meets the defined Zehta and retained within planned costs. For the selection of the optimal solutions are used methods of value analysis.

Choice of packaging (type of material, the mass of packed content, shape and appearance) should be left to the producer of safe food, where he must have in mind the health safety of the packed product in the declared period of sustainability and environmental comfort selected packaging. The choice of packaging of goods depends on several elements, which primarily include the optimal conditions to keep the product to be packaged. The choice of packaging of the goods affected by: the technical characteristics, appearance, ability to protect, functionality, the ability of continuous development and price.

QUALITY TESTING OF PACKAGING

In the packaging can examine the properties of the material from which the package is made and ready-made packages to its applicability. The properties of the materials from which packaging is made, it is estimated that the physical-mechanical and chemical testing. When the physical and mechanical tests determined tear strength, elongation, pressure, thickness, peel-off, permeability to moisture, gases, chemicals and others. For chemical analysis of materials intended to create a package or already installed in the package, determined by reactivity between packaging and packaged goods, corrosion resistance, fragrance packaging, resistance to solvents and the like. In doing so, use a variety of methods, from modern physico-chemical methods: spectrometry for accurate and timely determination of the composition, gas chromatography to control strength, electron microscopy for output errors (defectoscopy) and X-ray analysis of the structure of materials. A separate analysis establishes resistance to various influences packages packed content and structure of materials. Test package to its applicability is done on special devices, whereby the determined resistance: strikes, throwing, falling, tumbling, vibration, cracking under pressure and the pressure in warehouses.

DECIPHERING LABELS ON PRODUCTS

What should be located on a label? The packaging of the product is first recognized from the front:

- Identity of the product (product name, name of product lines, its purpose).
- Net volume (mainly to volume content expressed in milligrams, grams, kilograms). Symbol increased and fat letter "e" means to guarantee that the specified volume of products in accordance with the system of measures laid down in the European Union. Tag NET WT is the abbreviation of the English expression for the net weight.

- On the back side there is a list of ingredients - a list of all ingredients included in the product written in descending order by their concentration, ie. the representation of the product. There are exceptions, and these are the ingredients that participate in less than 1% by weight of the product. They are not required by a strict order. The ingredients are present for staining according to custom, presented at the end. The list of ingredients may not be listed on the packaging when it comes to products of extremely small volume with decorative packaging.
- When reading the list of ingredients should be especially cautious for several reasons. Often it does not list the components that are the most common causes of allergies.
- The label is user guide, information on how, when and where to use the product observed.
- The name and location of the manufacturer and / or distributor - should bear the name of the company that manufactures the product and the company that distributes it, as well as the exact address of their offices. From almost at this point are the web addresses of companies. This was mainly address to which they can send inquiries or complaints related to a given product.
- Country of origin - the country where the product was produced and packaged "made in..."
- Warnings - indications concerning the possible contraindications, precautions, warnings about the use of the product by children, etc.

Some of the most common symbols on the label are a symbol of open cylindrical boxes with numbers - to put it simply, it is an indication of how much time should pass from when you open the product and the first time he used to throw this product in the trash. So it's shelf life counting the time from the first use, under the conditions that the product is stored at the usual place under normal conditions (without exposure to high temperatures, light or humidity and without lid removed). For example, if the label on the package 12M, it means that the product is correct for the use of 12 months from the opening, and after that time it needs to get past.

Black and white arrow within - somewhat resembles the yin-yang symbol, but it really means that the company that produced the product invests and contributes to European programs which take care of proper waste disposal and recycling of all parts of the packaging. This is a typical European (German origin) symbol for recycling.

The symbol of an open book with his index finger pointed at it indicates that the additional information about the product needs to look at some additional label, card, box, piece of paper, pamphlets, ...

The triangle with the arrow mark on the recyclability of packaging products observed. Often in the middle of a triangle can not find certain letters or numbers indicating a material that can be recycled or degree of degradation of packaging. The higher the number (numbers range from 1 to 7) to the material from which made packaging more harmful to the environment. Within the triangle can be

printed and the percentage in which the package is made of recycled material. Below may be even more recycling symbols, each of which is, for example, Taiwanese square symbol for recycling packaging.

Uncle throwing trash in the trash icon that appeals to consumers that their waste properly disposed of, ie. to the recycle bin or container designed for that.

The symbol of fire indicates that the product is highly flammable, or that contains flammable materials such as acetone, alcohol etc.

Bunny - there are more tags that contain a drawing of a rabbit, and the most popular are "leaping bunny" street "Bunny and jump" and "cruelty-free and vegan" Bunny. Both labels testify to the given product is not tested on animals.

The best would be that all the products we buy have these tags and all the necessary data on the packaging, but for now it is not. We can only hope that companies will want to win the trust of customers commemorating precise and clear, and for us to be more aware of what we buy.

PSYCHOLOGICAL ELEMENTS OF CONSUMER BEHAVIOR

Attitude is very rooted in the minds of people and it is difficult to perform his changes. He includes unchanged long-term thinking. According to Kotler, attitude represents a lasting favorable or unfavorable processes, emotional feelings and tendencies of action toward an object or idea (Rakić, 2003) consumer attitudes about the organization affect all its purchasing decisions in the future. Satisfied consumers have a positive experience, and therefore a positive attitude. It is believed that, if satisfied customer your experience and recommendation carries two friends, then transferred dissatisfied consumer experience yet many people.

Motivation is caused by the needs and goals that man has. When there is a need for a specific product or service, the consumer is motivated and gets a stimulus to action, in order to meet their needs and achieve goals. And on the other hand, a consumer who is dissatisfied with the supplied value will be motivated to change the product and manufacturer. Stimulants is directed motivation, incentives are input in the process of perception.

Perception is a mental process through the image formation or experience of an object, phenomenon or person. This process is a result of certain of environmental stimuli. When we talk about the disciplines of marketing, incentives are initiated various ways of advertising messages, the redeemed using colors and symbols of corporate identity designs to the design of products and packaging and others. These stimulants consumer reacts to form a mental image - the image of the product and the company. The literature in marketing it is also called "Imaginary marketing mix", because it refers to an effect that causes the marketing program of the company on the psyche of consumers. It is this image that consumers have about brands or companies, causes their different behavior in the purchasing process (Maričić, 1996). Perception can be defined as "the process by which a person selects, organizes and explains stimuli in a meaningful and understandable

picture of the world (Leon, 1994). The perception is subjective in nature, but depends on the quality of the challenge. Through the technique perception folder is established that consumer perceptions about competitors and their products, providing insight into the competitive position that the company has.

THE PSYCHOLOGICAL IMPACT OF COLORS ON CONSUMER BEHAVIOR

Psychology of color is part of psychology that studies the emotions and reactions of observers to the certain color. It has been proven that people respond differently to the certain color and that they cause them different emotional states, behavior and moods. Respecting these findings opens a large space for application of the same for the purpose of marketing, advertising and sales improvements in general.

White color: In design, white is associated with professionalism and professionalism. The color white signifies light, so it is considered a summer color. That reflects all the power spectrum, and therefore it is often in hard to look at her, because reflection creates a visual barrier. It increases the sense of space. Brides wear white to symbolize innocence and purity. Doctors wear white coats to draw attention to sterility. Symbolism: purity, simplicity, hygiene, efficiency, sterility, cold, elitism, youth, gentleness.

Black is the color of authority and power. In design, Black gives the impression of sophistication, mystery and elegance. It is a non-color that absorbs the entire spectrum, and does not reflect any part of the spectrum and is therefore perceive dark. Symbolism: sophistication, elegance, charm, mystery, glamor, security, emotional stability, danger.

Red is the color that most temperamental be most intense feelings, increases your heart rate and breathing. The design and art red is used as accent, accessory, to put emphasis on something or leave a special impression. Large areas can be red glut space. Symbolism: power, heat, energy, excitement, passion, speed, danger, incentives, defiance, aggression, stress, pressure, visual effort.

Blue is the color that is associated with the sky and the sea. Causes the opposite effects of red. It has the power to issue and relaxes. The art and design is especially popular. Blue is the most commonly used color in general. Symbolism: trust, reliability, sophistication, tranquility, reality, loyalty, security, thoughtfulness, loyalty, relaxation, professionalism.

The green color is synonymous with health and nature. It has the power to relax and soothe. The art and design is very grateful but should not be exaggerated with large colored surfaces. Ideally combined with red and orange. Symbolism: the nature, freshness, health, cold, growth, development, wealth, money, balance, security, stability.

Purple is the color of elegance, and is considered the "royal blue". Feminine and romantic, includes the luxury and opulence. In art and design, purple is very

popular. On the other hand, due to the extremely low proportion in nature, marked by simplicity and uniqueness. Symbolism: sublimity, spirituality, dignity, high prestige, respect, elegance, luxury, wealth, sophistication.

The expansion of the globalization process every day poses new challenges for the business plans of the company. For centuries practiced customs, established norms and values that influence your company's products, under the slogan "Think globally, act locally", to a lesser or greater extent adapt to market differences. For example, companies whose packages are recognizable by yellow flowers, for the success of products in the Mexican market, I had to remove them, since in Mexico yellow flowers a symbol of death or non-compliance. On the German market prices, and consumers opt for organic products in the packaging. To customize these specifics of the product, the packaging offers excellent opportunities, because it is a phenomenon composed of specific colors, shapes, letters, forms, materials, textures, details, labels, types of closures, ie. only one in which these factors can have a decisive influence in the purchase of products (Quarterly Marketing Journal, 2002).

CONCLUSION

Suit (package) does not make the man (the goods), but it adorns (sales). Be sure that what one sees with his eyes away yelling leaves an impression of what they receive through any other senses. So the man behaves towards the package, although the choice of packaging for each individual designated preferences, such as simplicity, extravagance, attractiveness, etc.

One of the main tasks of packaging within the sales function, the packaging contribute to increased sales volume. Realization of this task relates to increased sales of some product attracting new customers as well as those who only occasionally buy that product. The increase in sales volume with the help of the package achieved by the package should attract the attention of a potential buyer and to influence him so you decide to buy. Interesting forms of packaging, color, contrast, color, size and shape of the letters and their arrangement on the packaging, illustrations or some interesting enough striking detail of the packaging can interest customer, to attract his attention and to keep his gaze. Packaging should act so that the potential buyer decides to purchase. Decisions about the purchase of a complex process. To the customer decides to buy, must have certain motives to settle the purchase of a need or desire.

Buyer will not meet his every need or desire to purchase. Some needs or wants are not yet sufficient reason for making purchasing decisions. Will the customer decide to buy some goods, depends on the intensity of the need or desire and intensity of resistance purchases. Among saved there needs hierarchy, in the first place are only existential physiological needs when the consumer meet these needs - can think about satisfying certain desires. Packaging may intensify existing or latent needs and desires.

Package design includes the creativity and innovative approach, closely linked with an analysis of the market and current trends. Regardless of how a brand has a good opening in the market, occasionally it is necessary modernized its image through the package, the choice of colors that are trendy, actual typography of new materials.

Studies have shown that the design of the package is a powerful tool to communicate with customers, and affecting people, potential customers, regardless of demographic, social and educational characteristics. Considering all the above aspects, it can be confirmed that a decisive influence on the decision to purchase has the look and quality of packaging, since it last communicated with customers and encourages him to make a decision.

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IMPACT OF VISUAL COMMUNICATION ON CONSUMER BEHAVIOR

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ABSTRACT

This paper presents examination of the impact of visual communication on customer behavior results. Authors will present new findings in this scientific field and through representative examples contribute to a better understanding and improvement of access to visual communication, which results in a strengthening emotional ties with loyal consumers. Visual communication is the communication of ideas and creativity through the visual display of information. Visual communication design relies on drawing as the primary component of visual language to support the conception and visualization of ideas. Visual communication design influences people's choices on what they think, they need or want. If the information is presented in a way that attracts the intend audience and persuades them to take action, in this case we can say that the visual communication is successfully designed.

The aim of this paper is to show that creativity can make complex messages easy to understand. The company's successful visual communication build and maintain customer loyalty and it creates strong emotionally connections between consumers and brands.

Key words: *Visual Communication, Consumer Cehavior, Creativity, Design, Corporate Identity*

JEL Classification: *M31, J24*

UDC: *316.77:366.1*

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INTRODUCTION

“Create your own visual style, let it be unique for yourself and yet identifiable for others”.

Orson Welles

Visual communication is communication of ideas through visual display of information. Such kind of communication is primarily associated with two-dimensional images, which includes art, signs, photographs, typography, drawing, color and electronic resources. Recent research in this area have focused on web design and graphically oriented usability. It's all part of what can be used to visually communication with the audience. Visual communication can be seen for the first time in the images painted in caves, stone walls and ceilings dating back to the Paleolithic, 40,000 years ago. It is believed that those images are the work of the distinguished elders and shamans. The most common themes in cave paintings are large wild animals, such as bison, horses, buffalo and deer, as well as prints of human hands and various abstract motifs. They painted pictures with red and yellow colors using hematite, manganese oxide and coal. Alternative and modern theory proposes the theory that shamans retreated into the darkness of the cave went into a trance state and then paint images of their visions. However, as with everything else that dates from this period, it is impossible to be sure about that theory because of the relative lack of material evidence and the many pitfalls that can occur when trying to understand the prehistoric mindset of the modern mind.

Much later, with the advent of photography, television and moving images, imagination of humanity flared and is confirmed by the fact that visual communication has greater power than the written word. With each new technology, visual communication is becoming more powerful and people have confidence in it.

The most important task of the business' advertising is to present the product or service in such a way that the entire society, possible consumer turns to positive emotional stimuli. The main topic of advertising a product or service is to draw the attention of consumers and to investigate the impact of advertising on consumer behavior. Many aspects influence their behavior; among them the most important roles are psychological and cognitive, emotional and behavioral. Marketers pay special attention to the consumer with the aim to attract their attention and keep them. Many factors, specific features and characteristics influence consumers in their decision-making process. Also, as Jameh Bozorgi and Dashtaki pointed out - the relation between motivation and culture has profound implications for marketers' activities since the necessity to be culturally literate is more evident taking into consideration the internationalization of business. In addition to this, it requires them to develop a cultural consumers' map besides demographics (Jameh Bozorgi & Dashtaki, 2014). The decision is a result of the acquisition, of each of these factors.

In the near future social, economic and technological trends will be harmonized to create a unique opportunity for new and innovative forms of visual communication. This combination of factors will lead visual communication becomes essential in our personal and professional lives. Consumers demand new and richer experience, and the application of visual communication allows this. Visual appearance of the product is the key determinant that affects the consumer reaction to the product's success (Coates, 2003). Estimates by consumers relate mainly to the elegance, functionality, social importance, and are based largely on visual information. Visual product attributes are often the center of satisfaction of consumers' desire and with them they actually meet their needs (Bloch, 1995). Without a clear understanding of consumer behavior, it would be difficult to devise effective marketing and sales strategies and business models (Nejati, Salamzadeh, 2011).

VISUAL COMMUNICATION - VISUAL PERSUASION

The world is today, generally, satiated with images and people are constantly surrounded with attempts by marketers to visually convince in the quality and necessity of their products and services through advertising. Attention in advertising is still paid in verbal messages, but special attention goes to the visual phenomena. Persuading consumers is done through visual and verbal continuum mainly. Visual messages can be convincing, they can have a deeper meaning and can attract more attention, and it is possible to cause major changes in consumer attitudes. There is an interesting connection between visual and text messages in advertising, because when these two elements are used together, verbal messages tend to limit the meaning of visual messages, and visual messages harder to expand the meaning of verbal messages (Rogers, 2007).

According to Messaris, images in advertising, can provoke emotions by simulating the appearance of a real person or object, photographs can serve as evidence that something happened and in the end can create an implicit connection between the offered product and some other photographs (Messaris, 1997).

Image, as a complicated way of visual communication can be analyzed in terms of color, design, shape and other technical characteristics. Visual communication in advertising aims to attract, arouse interest and compel consumers to remember what they saw. Visual communication should also challenges the positive experiences and feelings related to the product and thereby provoke the reaction of consumers. Persuading consumers operates on three levels: innovation, arrangement and delivery. The first level deals with the concept of innovation (organization of arguments), the arrangement relates to the way in which the argument is organized. The second level in advertising is selection and placement of visual elements which helps to modulate the experience of the observer. Deliver, as the third one, is the way how the proposal was presented. Fulfilling these three levels can be achieved by a stronger effect of persuasion. Several groups, such as attracting attention, slogan, sexuality, newspapers are particularly are very important in visual communication and they should be paid attention (Scott, 1994).

Currently, the most popular method of increasing attention to an item in a multi-product display is to increase the salience of the item by increasing its relative size or removing other items from the view (Mishra, Mishra, 2015). Among the many ways of attracting and holding the attention of consumers, probably the most often used are sexual remarks, especially in the fashion industry, through sexual content or symbols: Sex sells. Sex is used to attract attention and to be part of your business; it's that since when our species exist (Reichert, Lambiase, 2003).

VISUAL COMMUNICATION AND EMOTIONS – SIGHT AS AN EMOTIONAL TOOL

Sight is the dominant sense in humans which allow them to explore and understand the world. Often exceeds the other senses, and has the power to convince people beyond any logic. According to the book "Brand Senses", the research that was done with food and drinks prove that. The results showed that when removed colors and flavors, there are only thirty percent of those who have tried cherry juice and was able to recognize the taste. Forty per cent of respondents thought they actually drinking lemonade (Lindstorm, 2004).

Visually attractive packaging, with clear colors and precisely measures designed conquer and create a strong connection with consumers. Absolut Vodka, Apple iMac, Gillette are brains focused on constantly presenting fresh shapes and sensory experiences that consumers are respected. "The colors are sensations, not substance" (Friedman, 1947).

Products that can be transformed into a sensation are those which are winning. Each of emotional branding strategy must consider the effect that colors have on the brand. Color conveys crucial information to the consumer. Colors trigger very specific responses in the central nervous system and cerebral cortex. They can trigger thoughts, memories and certain models of perception. Carefully selected colors allowing consumers to understand and accept brands. The effect of the color arises from cultural connections and from psychology. Colors of short wavelengths are soothing. Blue color, for example, lowers blood pressure and pulse. Yellow is the color of medium wavelengths. This color is the brightest and most easily attracts attention. This is the main reason the "Yellow Pages" is right in yellow (Gobe, 2001).

It is desirable to choose a color that easily evokes the brand. For example, John Deere used the green color for his tractors. Green is reminiscent of nature. The role that color plays in creating a brand identity is not to be underestimated. The colors draw attention and provoke reactions. Orange translucent color, which is used by Apple for iMac brand causes joy and a sense of uniqueness. Coca-Cola is considering color very seriously. Simply, wherever there is Coca-Cola, there are red and white. Santa Claus traditionally wore green clothes, while Coca-Cola has not begun to aggressively promote him during the fifties. Now in every shopping

mall, Santa Claus wears the colors of the brand of Coca-Cola. Consistent use of color, dynamic ribbon, typography and logo, they created a very clear image that has survived decades and memorable to everyone who has been exposed to the brand. The most common color of the logo of American corporations is blue (like company IBM). The company UPS has selected one of the least used colors - brown and with it made a great success. Brown color represents simplicity and consistency; it is perfect for a company that deals with logistics. This color is significantly in the mission to make different company in the market, as there is no company that uses this color.

The human brain first registered color than the form and content. Choosing a color that will create identity requires extensive knowledge of color theory, a clear vision of how the brand will be perceived and differentiated. Knowledge, information, skills, innovation and revolutionary new ideas are pushing the boundaries of social and economic growth and development and are becoming a major production resource (Baltezarevic, Baltezarevic, 2013, pp. 429)

Some companies, organizations and even individuals are so fundamental in choosing colors, as they already have that color in their minds. But, color can be used in reaching the objectives also, which is much more than a simple recognition of the brand. It can be used to provoke emotions, expressions of personality and build an important connection with the people that surround the brand.



Figure 1: Santa Claus in traditional clothes *and* in the colors of the brand Coca-Cola

Source:

<https://www.travelers411.com/forums/album.php?albumid=273&pictureid=2339>

In one shop, Johnny Walker with nonverbal communication points to elements of the brand, which should attract the sophisticated world traveler. On the shimmering wall panel there are shown seasonal travel destination, and a number of clocks showing different times in different parts of the world. Such non-verbal symbols have many advantages. Photos contents allow the customer's imagination set sail on a wave of pleasant associations, where the identity of the brand connects with the lifestyle to which they individually weight. Although words can sometimes achieve wonders, images are often useful because they are able to produce immediate impression. Finally, the big image can from afar to attract attention, as they say the limited time they have to hear. For interior attention must be paid to the lighting, because the products look better, if they are properly illuminated. Studio for industrial design at the Royal Art Academy created the luminous object "DataLamp" which means that computer technology can be projected on the walls multicolored ambient images that appear to float. Such lighting combined with music, can create mystical atmosphere (Gobe, 2001).

PRODUCT PACKAGING

As there are a growing number of available products at a market, companies must increasingly strive to attract consumers to their products. Manufacturers pay special attention to the habits, attitudes and choices when purchasing to design their packaging to attract customers to various target markets. Due to the increasing need for a different design of packaging, many specialized companies have been developed. Design today seems a developed industry, and all the elements of package design (including the shape) are carefully reviewed before the introduction of new products.

The packaging design has developed a visual language that helps consumers to identify products of a certain type, price or use. In some product categories this language is so taken root that consumers expect to see a certain color, style and graphics processing on a particular product. For example, assume a predominantly white and other light colors on the products for milk and other dairy products. This is due to the success of a particular brand, so that other competing products follow a style similar to that adopted by the market leader. One of the important issues that brand owners, as well as graphic designers today need to ask themselves is whether their brand should use language of categories or need to invent their own way of communication (Hart, 2003).

THE ROLE OF COLOR IN VISUAL COMMUNICATION

Modern psychology, sociology and philosophy have long been coping with difficulties understanding of colors, but they all agree that the color does not belong only to the physical world. With color the most diverse psychological and

spiritual states can be expressed and their perception dependent of the sensory system. The color we are experiencing provokes a feeling that arises from a compound of physical and psychological information driven through a complex neuro-sensory system.

Colors are physically one of the forms of electromagnetic radiation with a wavelength range of about 380 to about 780 millimicrons, distributed along a spectrum of blue-yellow-red and mutual transitional colors. Different frequencies of light produce different color impressions. The human eye is able to accommodate up to two hundred shades. The eye is unable to detect infrared and ultraviolet waves without additional aids. In nature there are many waves that the human eye cannot detect. There are theories about relationships between certain colors with specific geometric shapes.

The painter Wassily Kandinsky argued that the quadrate is the geometric image which may be expressed only in red, triangle in yellow, a circle of blue. According to him, similar chromatic values have the natural forms that derive from the basic geometric painting and body. So leaf is green, because it represents the middle ground between the triangle and circle (yellow and blue). Proportionate and well-adjusted relationship shades that blend with the unique outcome of a harmony of color which content the aesthetic and value judgment (Kandinsky, 1991).

Colors have a huge impact on the induction of attention, interest and decision making. The attitude of consumers to research their colors and emotional capacity significantly determine the colorist solutions in product design and advertising. The wrong choice of colors has led to many major business failures. Experiments conducted by the American Institute of colors, have shown that it is not simple just make a perfect balance of colors, but they still confirm that the color expression based on the quality of light energy that affects the motor behavior and blood circulation (Pavlović, 2004).

According to Kandinsky, each color can be hot and cold, and some colors may glows in itself, the other more radiates to the environment. The contrast is most visible in the red color; the light yellow is unbearable; dark blue plunges to deep seriousness of all things, while light blue is achieved "squeeze peace" (Arnhajm, 1971, pp. 305).

Status of visual meaning varies from one generation to another. Also the effect of color varies depending on the sex. Different color values are in a dream and during waking. In sunny areas, acceptable are vibrant colors, in oposit of the Scandinavian countries where the majority opts for mild and dark shades. In our country the consumers with a better standard opting for light and delicate colors, poorer estates opt for the vibrant and luminous color. New studies have established a link between color and flavor, color and aroma, color and weight; salt is linked to a gray-blue, the sour to yellow and green, and the hot to orange. The black color makes the same package is working twice harder than white, so this is why it is necessary choose a bright color for packaging heavy objects (worker feels less tired when transporting these items).

The symbolism of color is applied differently in different nations. Religious peculiarities and political circumstances can give a different meaning in different periods for the same color.

In the USA and Western Europe in the movies, the white color is usually intended to the hero who has positive role and black color intend to negative role.

In the Indian and Japanese movies it is quite different. In Serbia associations that cause black and white colors are totally opposite of associations that people have had in the past. In the middle Ages people who are mourning their dead wore white clothes. In Japan, red is reserved exclusively for women, while in China it is a symbol of masculinity. In Europe, red color is a sign of danger and warning, courage and excitement.

In Iran, blue is the color of immorality, while blue color in Japan is the color of death. In Latin America, the purple color is color of death. According to a survey conducted by the American Institute of colors, red color influences the growth of blood pressure, while blue stew pressure. According to data obtained by two researchers through the Internet, the most popular color in the world is blue.

Color runs emotions and amplifies the impression which operates mostly subconsciously. The colors, in addition to be passive, active and neutral, have their positive and negative meanings also.

Yellow: Positive meaning of this color is prudence, clarity, intelligence, joy, organization, spring, and negative meanings which carry with it are the laziness and cynicism.

Blue represents tranquility, love, aristocracy, acceptance, patience, understanding, cooperation, comfort, loyalty and security. The negative meaning of the blue color is fear, coldness, passivity and depression.

Orange means steadfastness, courage, confidence, friendship, warmth and energy. Negative meanings are ignorance and inferiority.

Purple is linked to witchcraft, sophistication and faith, but on the other hand represents the prohibition.

The green color has elements of wealth, health, nature, hope, growth, freshness and responsibilities. In addition, it also means envy, guilt, jealousy and disorder.

The black color represents the seriousness, elegance, drama and loyalty, but on the other hand, it carries the connotation of evil, death, emotional coldness and ignorance.

The white color symbolizes purity, freshness, lightness and goodness but is renowned for the winter, cold and remote.

The red color symbolizes love, passion, joy, or some shades of these colors (dark red) represent the devil and the revolution (<http://www.klix.ba/lifestyle/modailjepota/boje-njihovo-znacenje-i-skrivena-poruka/070528054>).

PSYCHOLOGY OF COLOR

Through the years, some colors acquired specific meanings. Renaissance painting Jon Van Eyck at "Giovanni Arolfini and his bride" painted bride who wearing a green dress as a symbol of fertility. In Celtic myths green color also symbolizes fertility - god of fertility was The Green Man. For the Egyptians, the green color was the sacred, and represented the hope and joy of spring.

The same is with Muslims who look at green color as sacred. Japanese Emperor Hirohito's birthday is celebrated as "Green Day" because of his love of gardening. Later, the early Christians banned green because it was used in pagan ceremonies. Anyway green was the best choice for the wedding because of its obvious symbolism. At the end of the twentieth century in American culture it was added the symbolism of intensified sexuality to the green color.

Today, green is the universal symbol of nature and freshness, as well as the contemporary symbol for the ecological well-being. The color depends on our perception of things; it is unrealistic because everyone will see things differently colored. The colors are changed through the centuries, their meaning depending on the time and cultures. The ancient Celts used colors to describe the elements that make up the world. Some psychologists like Freud explored the meaning of color on humans. The colors are full of meaning: flooded, look red or green with envy, blue blood ... The symbolism of color are built through history, religion, beliefs and traditions. Practically every race and culture has its own symbolism associated with certain colors. Colors affect people, not only visually, but also psychologically, they have their own philosophy.

Egyptians, Chinese and Indians believed in the power of color to heal the man and the truth is that some colors affect physiological functions. In the chromo therapy is believed that red stimulates physical and mental energy, nerves yellow, orange renewed lungs, blue heals disorders such as fever, colds, liver problems, indigo cures skin diseases.

Colors are telling us always more than what we read from them and it is important to find at least which colors affect us so that we can organize our world and our colors. Color emotion can be defined as the relationship between color and psychological reactions of observers. A more complex definition would be that there is a relationship between colors and triggered a psychological reaction which depends of the configuration and the context of the visual experience (<http://web.zpr.fer.hr/ergonomija/2003/stincic/simbolizamboja.htm>).



Figure 2: Jan Van Ajk "Giovanni Arolfini and his bride", 1434.year.

Source:<http://lawhumanitiesroma3.blogspot.com/2013/04/desmond-manderson-on-law-and-visual.html> (24.05.2015.)

The researchers found that the green color can improve ability to read. Some students by placing a transparent sheet of green paper over reading material increases reading speed and comprehension. The green color has been a symbol of fertility and color which was used in the middle Ages for weddings. Even today, the US company M & M candies, for green packaging for their brand says thus they sending sexual messages (<http://www.colour-affects.co.uk/psychological-properties-of-colours>).



Figure 3: M & M candy packaging

Source: <https://jettd06.wordpress.com/2014/12/02/synergy-based-competitors-and-target-marketing-campaign-week-4/> (25.04.2015)

Green is often used for decoration, as it has a calming effect. People who work in the green environment have less pain in the stomach. Blue - is described as the favorite color of most people, especially among men. Blue causes a feeling of calm and serenity. Often it is described as a quiet, safe and clean. But, blue color can also create a feeling of sadness or aloofness. The blue color is often used to offices decoration because research has shown that people are more productive in blue environment. Blue is "the least tasty". Some nutritionists recommend taking blue food if people are on diet. Blue rarely occurs naturally in foods (in addition to blueberries and plums). Also in nature blue color often warns of poison, or it is a sign of deterioration. The blue color can reduce heart rate and body temperature.

Orange - the color immediately provokes feelings. It is a combination of yellow and red and is considered an energetic color. The orange color stimulates us to remember the feeling of excitement, enthusiasm and warmth. Orange is often used to attract attention (traffic signs and advertising).

Black – is a sensation even though the color is the absence of light product. It is often used as a symbol of evil or threat, but it is popular as an indicator of power. In many cultures associated with death, but also on sex, formality, and sophistication. In ancient Egypt, black represented life and rebirth. In the fashion industry black is often used, as gives the impression that a person is thinner.

White - not only the absence of color, it is a positive and strong as well as red and black. God has painted many colors, but never as great as in white. The white color represents purity and innocence. Because of its light creates a sense of space or further out. It is described as cold, bland and sterile. The room painted white, seems spacious, but empty and unfriendly. Hospitals and paramedics used white paint to create a feeling of sterility.

Brown - the color that causes a feeling of strength and reliability. It also causes the feeling of sadness and isolation. Mind brings a feeling of warmth, comfort and security. Since there are different symbolic meanings, individual reactions to color vary greatly.

Pink - is essentially a bright red and usually associated with love and romance. It has a calming effect. It is used in prisons to calm inmates. Sports teams sometimes paint the opponent's locker room pink to keep the players passive and less energetic. Psychologists have shown that pink has a calming effect only during the first exposure color. In prisons, inmates often become more anxious after they become accustomed to the colors.

Many religions are associated with colors. But, using colors should pay attention to the following

(<http://psychology.about.com/od/sensationandperception/a/colorpsych.htm>):

- The green color is considered as a sacred color of Islam.
- Judaism is represented in yellow.
- In Hinduism, many gods are with blue skin.
- White color is linked to peace in many religions.
- Purple – is a symbol of power and wealth. It also represents wisdom and spirituality. But it rarely occurs in nature.

- Yellow - is often described as a lively and warm. This color is least eye-pleasing due to the high amount of light that is reflected. These colors can cause a feeling of frustration and anger.

Knowledge of the target market is a fundamental part of the process of each design. In addition, designers must pay attention to the fact that age affects the human preference for colors. Color expert Faber Birr has conducted many studies in this field and published them in his book "The Psychology of Color and color therapy" (Birren, 1950). He states that in both sexes the blue and red colors "held high priority throughout their lives" He found that the yellow color is popular with children, but maturing becomes less popular. He found that as people get older they have a greater affection for shades of shorter wavelengths (blue, green, purple), than the shades of longer wavelengths (red, orange, yellow).

Another factor that affects the affinity of people towards certain colors is social and cultural changes in life. This information is very important for the designers. In a design that is intended for children they should pay attention to the yellow color, while, for example, when designing a website with a love theme for the elderly should pay attention to blue, green or purple (<http://blog.teamtreehouse.com/how-colour-communicates-meaning>).

CONCLUSION

Successful visual communication influence the creation of consumer attitudes, directs them on what and how to think and persuade consumers to finally take action. Visual communication provides consumers with new and richer experience. Often the visual attributes of the product are in front of meeting the needs for the product. Due to this fact, marketers today are constantly visually convincing consumers and influence their purchasing decisions. Consumers are exposed to constant visual pressure by imposing information that offered products or services are necessary for them and absolutely meet their needs and desires.

The dominant sense of sight, which often exceeds all other senses, has sometimes the power to convince beyond any logic. By carefully selecting the color in visual communication with consumers, a better understanding can be archived, as well as the activation of the central nervous system to initiates and thought processes, memories and certain models of perception.

The human brain before the forms and contents register the color, so it is very important to have extensive knowledge of color theory, in order to create high-quality identity and to differentiate the product on the market from the other competitors. Color affects how product will be perceived by consumers. Color can provoke emotions, and thus we can build an emotional connection between brands and consumers, which is the primary role of visual communication.

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CONCEPTS OF THE DEVELOPMENT OF CUSTOMER RELATIONS IN TELEKOM SERBIA JSC

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ABSTRACT

With the development of techniques and technology in the XXI century, companies' business environment also changes; hence new circumstances demand new marketing concepts. The aim of this approach is to obtain a long-term satisfaction of the customers, i.e. to catch buyers' attention and to make profit through discovering customers' needs, creating adjusted offer and satisfying their needs. The old attitude that business companies only form the value of products or service thanks to the data gained from experience is now replaced with the attitude that a buyer forms value because value is not only a product's quality, but also an overall impression the customer has while using certain products or service.

Today, more than ever, is much more expensive to catch the attention of new customers than to retain the existing ones in. Therefore, successful companies pay full attention to creating and developing long term relationship with their clients. In marketing researches, the buyer becomes something of a business partner with whom the company is striving to create a mutually satisfying business process. In the process of forming this relationship all employees are involved, starting from the top management to the final doers, i.e. salesmen.

In the territory of Serbia, one example of a successful creation of a long term relationship with clients is a company Telekom Serbia JSC. With properly directed activities, this company has been successfully listening to and analyzing their customers' wishes for years now. By treating their customers as clients this company has been fulfilling and directing its strategy and as a result they have made profit and established long term cooperation, which is reflected in satisfying clients' wishes. In this paper, only the strategy of creating long term relationship with the customers in Serbia will be observed, without looking back on the management on a regional level.

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INTRODUCTION

In circumstances of globalization the competitiveness of organizations in the area of telecommunications is growing in regards to the basic price and service range. Specificity of this sector is reflected in the fact that there is a great need for a quicker development of new services, quality marketing promotion, and the right strategic positioning on the market. Every market-oriented organization puts customers' needs and their adequate satisfaction in the centre of their business because that's the key to achieving goals and company's development.

Research on customer behaviour is actually a research on how people make a decision to use available funds (money or credit), time and effort when purchasing products and services for which they believe will satisfy their needs and wishes and make them happier (Maričić, 1994., p.8). Customers' needs should primarily be identified and studied, then, based on them, market goals should be established and what should be planned also based on these needs are production and sales program, marketing and other activities. Besides that, what needs to be found are ways and methods which will ensure effective use of available resources in order to gain competitiveness on the market. If the company in its mission doesn't find methods to attract and keep their customers and consumers, it won't last long.

FORMING LONG TERM RELATIONSHIP WITH THE CUSTOMERS

Customer Relationship Management (CRM) represents a special management philosophy, a business concept, as well as a collection of strategies, tactics and programmes which are focused on identifying and establishing a solid relationship with customers and keeping loyal customers in the aim of realizing business benefits and profits. CRM is an unfailing segment of the contemporary management that puts a client in the centre of its business.



Figure 1: Client/Customer Relationship Management

Source: <http://www.zoho.com/crm/how-crm-works.html>

Any management system should always bear in mind that satisfying customer's needs, i.e. consumer's needs should be the main task and purpose of all businesses in the company. The aim of every company is profitability and that can be realized by creating loyal and satisfied customers. Management basis of every successful company is realizing what customers' needs are. Every organization should have an adequate strategy in all stages of establishing relationship with the customers, for the sake of their satisfaction and loyalty. The organization observes, studies and adjusts a great number of factors which affect the customer's motivation and perception; it strives to reach the most effective presentation of products and services, i.e. it is making every effort to persuade potential customers that what their company presents is exactly what they need.

On the other hand, consumers themselves strive to satisfy their needs. A buyer (customer) is satisfied not only when the product or service live up to their expectations, but also when they surpass them. Satisfaction, i.e. customer satisfaction (z) is a function of two variables: realized (perceived / experienced) benefit (x) and the anticipated benefits (y) of use / utilization of the purchased product. If $x = y$, the consumer will be satisfied. If $x < y$, the customer will be dissatisfied (if x is substantially less than y , the customer will be very dissatisfied or disappointed). If $x > y$, the consumer will be more than happy (if x is much greater than y , the consumer will be more than pleased and excited / thrilled) (Hanic, 2010.). Measuring the customer satisfaction is a continuous process that includes the following elements: establishing criteria for customer satisfaction, successful communication and listening to feedback, and the development and implementation of solutions based on the feedback from the customer (Vukadinovic, Stankovic, 2014., pp 43.)

Because of this, companies are more and more in a situation where they need to think how to surpass consumer’s expectations with their offer, not only to live up to them. Products and services must have a market value so as to completely fulfil buyer’s demands and wishes. On the market where there are fierce and tough competitors, only those companies that understood buyers’ and consumers’ needs the best, will have a successful business. According to a granted marketing approach, with an orientation to buyers, i.e. customers, the business starts where the buyers are, not where the headquarters and manufacture are. Each product is created on demand to align each individual service with the overall experience of the customer. Each business system must be adjusted to the consumers’ needs by directing its operations and resources and creating such products / services that will meet their needs more and allow business system to realize their goals and make profit (Djuričić et al., 2012).

Almost all economists agree on the fact that providing customers with value and making a certain profit is the ultimate goal of conducting any business activity. By creating proper value the company gains loyal customers, which represents one of the outputs of a successful management. More people need to be educated about the benefits of the firm and news should be spread in the right manner (Grozdanic et al., 2013. pp. 109 - 142).

Consumers’ profitability	High	<p>Butterflies</p> <ul style="list-style-type: none"> -Compliance of the company’s offer with customers’ needs -High profit potential <p><i>Action</i></p> <ul style="list-style-type: none"> -Gaining transactional satisfaction instead of loyal attitude -Extraction of consumers during an active purchase 	<p>True friends</p> <ul style="list-style-type: none"> -Compliance of the company’s offer with customers’ needs -High profit potential <p><i>Action</i></p> <ul style="list-style-type: none"> -Consistent but not frequent communication -Development of the loyalty of behaviour and behaviour attitude -Nurture, impress, defend and keep
	Low	<p>Foreigners</p> <ul style="list-style-type: none"> -Weak compliance of the company’s offer with customers’ needs -Low profit potential <p><i>Action</i></p> <ul style="list-style-type: none"> -Stop investing -Profitability of every activity 	<p>Ticks</p> <ul style="list-style-type: none"> -Imitated compliance of the company’s offer with customers’ needs -Low profit potential <p><i>Action</i></p> <ul style="list-style-type: none"> - Measuring the size of the purchase and the share in it -If the purchase share is not big, focus on increasing the sale and cross sale -Costs control
		Low	High
		Customer loyalty	

Figure 2: The choice of a strategically significant customer

Source: Renartz, Kumar, 2002, p. 93

Depending on the relation between profitability and customer loyalty, there are four different types of customers: butterflies – very high profitability, but low level of loyalty; foreigners – both the profitability and loyalty are on a very low level, ticks – emphasized loyalty, but low profitability and; true friends – both high profit potential and high loyalty level. The relation between profitability and loyalty is at the same time an indicator of a customer's life expectancy and by working on some of these parameters the company can affect the customer's life expectancy as a buyer/user of certain products and services, which is shown in figure 2.

Value can be defined as a unique combination of benefits and sacrifices which emerge when a customer uses a certain product or service so as to please his/her needs. Value includes quality, price, and pleasantness, delivery on time and afternoon services. Therefore, it is important that every company identifies not only its competitors, but also to study the attitudes of its target customers, so as to be able to respond to market demands by adequately combining the instruments of marketing mix and available resources (modified: Hanna, Wozniak, 2001 pp. 35-37.). Internet, customer relations marketing (CRM), sales automation and marketing automation, as a technological breakthrough, are the ways to bring new, successful results (Modified: Dimitrijevic, Cogoljevic, 2014 pp. 181.). In order to achieve customers satisfaction and a positive business result it is necessary to establish what customers want (Marinkovic, 2008., pp. 115.). Organisations also need to focus on existing customers in order to ensure that they will continue purchasing and continue supporting the product. Organisations can increase their profitability by between 20% and 125% if they boost their customer retention rate by 5 percent (Peck et al., 2004).

The first requirement for the successful implementation of CRM is clarity regarding CRM terminology. From the many approaches available, the distinction between the following three areas has become generally accepted (Fayerman, 2002., pp. 57-67).

- Operational CRM supports front office processes, e.g. the staff in a call center. Operational integration points exist to human resource systems for user data and ERP systems for transferring order information which was captured e.g. from a call center representative (Alt, Puschmann, 2004., pp. 1-9). From an operations perspective, Bose (Bose, 2002., pp. 89-97) pointed out that CRM is an integration of technologies and business processes that are adopted to satisfy the needs of a customer during any given interaction (Mishra, Mishra, 2009, pp 83).
- Analytical CRM builds on operational CRM and establishes information on customer segments, behaviour and value using statistical methods. It is useful for management and evaluation purposes, the operational customer data are integrated with a centralized data warehouse which is consolidated data based on certain criteria (e.g. sales, profits). Here the data mining tool analyses defined dimensions e.g. compares the characteristics of one customer with another, leading to the determination of a customer segment and thus providing the basis for targeted marketing campaigns (Alt, Puschmann, 2004., pp. 1-9).

- Collaborative CRM concentrates on customer integration using a coordinated mix of interaction channels (multi-channel management), e.g. online shops, and call centres. Approximately 60% of the companies surveyed use internet portals in their customer communication for selected or suitable activities (Alt, Puschmann, 2004., pp. 1-9).

The criterion of quality in marketing is the ability and willingness of marketing managers to respond to a given task and goal by, first of all, identifying customer needs and, on that basis, organize marketing activities, procedures and methods, which will help placing products on the market and emphasize the advantages of the product in a rational and recognizable way (Djuricic et al., 2012).

Telekom Serbia JSC has been a principal telecommunications company which, for 15 years now, has been a leader in the area of land-line and mobile telephony, the Internet and multimedia in our country as well is in the region. It was brought into being in the year of 1997 in the process of reconstructing the PTT system (Postal Telegraph and Telephone) in Serbia. It is now a part of an assemblage governed by Telekom Serbia JSC Belgrade. Related legal entities are as follows: Telekom Serbia JSC Banja Luka (and/or Mtel JSC. Banja Luka), m:tel LLC Podgorica, Telus JSC Belgrade, FiberNet LLC. Podgorica, TS:NET BV Amsterdam, HD WIN LLC Belgrade (TV Arena Sport), DIMEDIA GROUP S.A. Geneva and mt:s bank JSC Belgrade (Taken from the Telekom web site). This company used to have a monopoly of the services of land-line and mobile telephony but for a number of years now it has been facing with competitors in the area of mobile telephony, and recently also in the area of land-line telephony.

According to the official website of this company: "About 99.8% of users opted for our land-line telephony services; 56.0% of users believe in our mobile telephony service quality and about 76.7% users have internet access via our ADSL."

THE APPLICATION OF CRM IN TELEKOM SERBIA

Telekom Serbia JSC is a modern company which in its list of services and products has a wide range of services which adhere to the latest technological and communication trends. From the beginning, this company has been holding on to and applying modern marketing methods regarding the development of a long term relationship with its clients. Given the fact that the area of telecommunications as a part of the Internet, multimedia and mobile telephony has been changing rapidly and improving on a daily basis, a starting point for a good management includes timely alteration and enhancement of services with the aim of a quick response to rapid changes in customer needs and demands. The influence of the competition and time limitation of a durability of the need for a certain service can be seen as additional motives for a constant analysis of customer behaviour.

Getting to know the customers, understanding their behaviour and then foreseeing their intentions enable a telecommunications company to adjust and

offer services at the right time, in the right way. Orientation of the entire company towards an individual customer with the application of information technologies helps to maintain a quicker and effective management. Companies that know their customers can easily increase their revenues and cut their costs. Some key goals of CRM are shaping long term relationship with its customers and getting closer to them on every step of the way. This can be accomplished by maximizing the activities of every sector in the company and in accordance with the needs of every individual customer. Therefore, by implementing CRM what is accomplished is the increase in customer satisfaction, decrease in costs, increased sales, and preparation of more successful marketing activities which affect the increase in efficiency. Beside the increase in customer satisfaction and efficiency enhancement, CRM has the following important goals: to get the attention of new customers, to reduce service prices, to enhance customer service and productivity, to enter new markets and analyse the competition.

It is necessary to maintain a trend of increase in the number of customers or at least to retain the existing customers by carrying out promo actions and refreshing the spectra of the offered services. It is necessary to conduct campaigns for the targeted customer segments on a daily, weekly and monthly basis. For these customers, it is necessary to carry out constant offer refreshments in regards to providing innovative and attractive offers and it is necessary to continue to regularly conduct campaigns to keep the old customers in. It is necessary to find the right balance in the subscription price and in the influence the campaigns have, in order to achieve mutual benefits.

Buyers are empowered because modern technologies enable them to control what type of information they want to gain through textual, visual or audio context. It is now thought that a complete media concept will no longer be designed by media companies or communicators, but by users themselves.

CRM is ideal for companies such as Telekom, where it is possible to sell many different products or services to the same buyer, where valuable products / services rapidly become obsolete, or under competitive pressure are constantly being improved. CRM is a lifeline for those business organizations that have VIP customers and need to know a lot about them, as well as for those who routinely collect a large number of customer information for their activities.

CRM concept has a multiple level approach. These are:

- **Tactical level** which is reflected in the activities of sales enhancement. Considering the fact that the service is delivered to customers the moment they buy it, special attention is dedicated to leaving a good impression in the contact between the customer and the company. Most often, the first purchase relationship is played out in the customer service, in the offices of Telekom or by contacting Call Centre, so the quality of the sales service is of great importance. This means that the sales agent at these sales locations must not only possess a default respect for the business bon-ton but also a highly skilled knowledge of the services they offer (technical and

technological knowledge of mobile phones, ADSL and IPTV equipment, campaigns and tariff profiles from the standard offer).

- **Strategic level** which shall apply the methods and techniques with the aim of not only to establish but also to develop a special partnership with the customers. If they look at the buyer as merely a user of services who aims to satisfy immediate needs, such a relationship is one-sided and probably short-lived. For example, the user has a need for establishing communication with others when on the move, his company sells him Voice service - traffic with the transfer of speech. The current user's need is satisfied, but not complete nor will the needs that will arise from satisfying the initial one be fulfilled. Therefore, the company will offer the client a mobile phone as an instrument, but will also establish a solid communication with the customer in order to find out customer's other needs, such as the need for an SMS communication or mobile internet. In that way, the buyer will be a partner in the adjustment of existing and creation of new services.
- **Philosophical level** which is reflected in the activities of applying strategies via all the employees in the company. Telekom is focused towards the customer, from the top management to the sales agent as the ultimate executor, and on the other hand as a first line of contact with the company's customers.

Three steps that stand out in the framework of CRM cycle:

- Gain knowledge about the customers – examining customer behaviour and creating quality database
- Come up with and undertake actions based on that knowledge – enhancement of the existing and creation of new campaigns which are adequately marketing-supported.
- Collect data and combine them with the existing knowledge, so as to create new one.

The essence of the Relationship approach is reflected in the following:

Orientation towards the retention of customers – if the customer signs up for a certain service for a longer period of time (12, 24, 36 months) he/she gains certain benefits and like that Telekom retains the customer for a contracted period of time. Before the expiration of the current contract the customer is offered with new benefits in terms of possibility to pay a phone in instalments, convergence of more services at lower prices and membership in certain loyalty programs - programs dealing with rewarding loyalty.

Constant contact with the customers – the contact that Telekom Serbia nurtures is in the first place an impressive marketing approach through a constant presence of a recognizable brand and a corporative identity in the media (TV, newspapers, e-media, sponsorships etc.) Aside from this, contact with the customer is carried out at sales objects, via official website, on social networks, forums, but also in a written form when delivering different offers and promo leaflets together with service accounts.

Focus on customer value – is highly expressed in all marketing approaches and advertising forms. Telekom uses benefits, bonuses, free traffic, discounts and other to communicate with its customers, and that raises customers awareness of the value a certain offer has for them.

Highlighted customer service – in the era of modern techniques and technologies the need for this company's service is the imperative of mobility, informing and trend.

Long term - is reflected in the provocation of needs for the latest services and long-term fulfilment of needs in the field of telecommunications services. Telecommunications is an area that has been experiencing dynamic changes and that expresses the need to keep up with them.

Generous commitment to fulfilling customer expectations - reflected in constant monitoring of the latest technological achievements, in timely and updated response to customer feedback (purchasing the latest mobile phone devices, the introduction of digital TV signals, increasing the flow rate of the Internet, constant work on the territorial expansion of the coverage of mobile telephony, adaptation of tariff packages, special offer for the corresponding segments of customers - students, persons with special needs, the company).

Quality is the concern of all employees – at all organizational levels, there is a responsibility concerning the quality of service offered to the client. The employees are continually educated in accordance with the required standards. Beside support, management provides satisfaction for employees who then approach their work assignments with even more care. Great attention is paid to the analysis of customer complaints that are an input for corrective measures to improve the quality of services. Technical support for the interference with the service and problems in the infrastructure is available 24 hours a day, reflecting the orientation of Telekom towards quality.

CUSTOMER LOYALTY

The aim of any entrepreneurship is to establish and develop a positive and long-term customer experience. Repeated positive experience results in satisfaction, i.e. customer satisfaction and their loyalty not only to a certain brand or service, but also to the company. The interdependence of satisfaction, loyalty and profitability has been empirically proved.

THE RATIO OF CUSTOMER SATISFACTION AND LOYALTY

Satisfaction is one the major preconditions for customer loyalty, but it is not the only one. If two competing companies had come to the same result by measuring satisfaction: that 85% of customers are satisfied with the company's service / product; a position of the company in which 55% are absolutely satisfied, 20% very satisfied and 10% satisfied, is quite different from the company in which the ratio is that 10% are absolutely satisfied, 25% very satisfied and 50% satisfied. The second company can examine the results through the prism that 90% of customers are not satisfied with all the elements of their offer (Veljkovic, 2006, p 186).

What can be concluded for Telekom is that if the customer is satisfied with the mobile phone and its post-paid package, he will most certainly buy the same sales package after the contract expires. However, this is not always the case, because competition can come up with a new phone with similar pricing terms and with the same conditions concerning the post paid contract, or they can offer the same phone but with more favourable contents of the post paid package. This is an obvious example that satisfaction is not the only precondition of loyalty.

LOYAL CUSTOMER AS A PRECONDITION OF A SUCCESSFUL MANAGEMENT

Concerning the *relationship* approach one of the focuses is on the fact that quality is a concern of every employee. Loyalty is also accomplished by a quality relationship of the employees in certain segments of the company and at each contact with the customer. After inducing the need which was encouraged by marketing campaigns, the customer will most often go to Telekom office so as to investigate whether this company can satisfy that need. The process of establishing a positive customer experience starts at the doorstep of the business object. The impression of satisfaction or dissatisfaction as well as the further decision about loyalty depend on the experience in using the service, but also on every contact the customer has with the employees in that company.

In a situation when the customer due to a poor marking of the retail object or an imperceptible emphasis of the firm has difficulties in finding the object, then a negative impression about the entire company emerges. If the office space is messy, insufficiently illuminated, of the unpleasant smell, if the advertising material is not neatly stacked, sales agent wear untidy clothes or they don't have them at all, it is definite that the customer will have a bad experience which will help him to decide not only to not buy the product in this office, but also in any other office of this company. In the opposite, when retail places are adequately branded, neat and the staff kind and professional all these parameters affect the customer in significant measure even when he/she is in a dilemma whether to purchase this service at the company's competitors because of the similar offer

conditions. He/she will buy the service here and that, in a long term period, increases his/her satisfaction and builds up loyalty.

The level of loyalty can be measured in two ways. The first relies on the attitudes of customers and the satisfaction the customer has from previous purchases – for example, if the customer is satisfied with the use of Mix tariff profile and signs up the same contract each time it expires. However, if the customer was satisfied with a certain service, but in the meantime his demands changed because of the technological or lifestyle enhancements, there is no guarantee that the customer will stay loyal because he is satisfied with the previous purchase – for example, the customer didn't need mobile internet, but modern lifestyle is now creating a need for this additional service or change.

Another way of measuring is a consequence of developed software packages and programs that allow detailed monitoring of specific behaviours, or the exact number of purchases with data on the type and model of the product / service, price, range, period of repeating a purchase and the like. In this way we get the information about how many purchases of the same brand of products / services a customer conducted (for example, how many successive purchases of post-paid packages with Nokia mobile phones a customer had) or the percentage of participation of the same brand in the total number of purchases (of the total number of contracted post-paid packages what the share of those with Nokia phones is).

However, in the area of telecommunications and in competitive conditions, loyalty can hardly be measured in the right way. Often, participation in purchase or preferring some brand over the other is not a true indicator of loyalty and these two ways should be combined with some other indicators.

TYPES OF LOYALTY

In order to properly apply its strategy in creating long-term relationship with its customers, Telekom acknowledges all segments or types of customer loyalty. The differences between categories of customer loyalty are clearly expressed in Telekom:

Absolutely loyal are those customers who from the moment they first used Telekom services/products stayed faithful and when making a decision about using new services they always opt for this company's offer. They belong to the group with stable loyalty. Although at the beginning of their customer experience, and because of the monopolistic position of Telekom in the land-line telephony, they were in some way forced to be the customers at this company, but that didn't stop them to opt for them after the introduction of new services. These users can be recognized by its portfolio of services included in the land-line and mobile subscription number, as well as ADSL and IPTV of this company. What is applicable to them is a Cross Selling method, i.e. the method of crossed sale, when, through the purchase the customer came for, another one opens for the same buyer.

Their loyalty is a collection of several factors: trust in public companies or a negative attitude towards foreign companies, earlier positive customer experience, good reactions of this company towards objections and rapid solution findings, adjustment to new trends, keeping up with technological innovations, large assortment of services, solid relations with the employees in the first line of sale, availability of retail places, Call Centres etc.

Latent or hidden loyalty includes customers who prefer Telekom over their competitors, but because of certain factors that doesn't affect the purchase process. We find this in a situation when they would use this company's service, but a Telekom office is too far away or their financial status and standard don't allow them to pay for a desired service, ADSL or IPTV for example.

Falsely loyal are customers who have a great number of repeated purchases, but their level of preference, i.e. positive attitude towards a certain service is quite low. They renew contracts for ADSL or post-paid number, but only because they got used to their phone or because of the discounts offered to them as current customers, or because of the price – a phone for 1 RSD. With these customers there is always a possibility that next time they will go to another operator.

There is a group characterized by **no loyalty**. These customers don't have a defined attitude towards any operator's offer. They don't care where they will purchase a certain service as long as there is no significant difference in price.

Telekom is striving to attract the highest possible number of customers to be in their absolutely loyal group by carrying out certain activities. The activities Telekom undertakes to transfer the customers into a desirable group are:

- Increased sense of security: in time of internet expansion the need for data protection is getting greater and greater. Therefore, this company offers different additional offers that guarantee protection of data – *Antivirus protection* which includes *TrendMicro Titanium Maximum Security* antivirus software and the license for its activation; *WEB hosting* enables us to rent disc space and appropriate service resources to accommodate Web pages on the Web server; *Cloud* service that enables business users to create their own virtual business environment with the maximum data security.
- Creating conditions for a safe purchase from home and delivering contracts and equipment to home address; creating conditions for paying the bill via bank or in instalments.
- Animating customers to use new services by applying a price politics: if a customer has had one of the services, by buying another one or more, monthly savings will be on a higher level in comparison to the prices of individual services (BOX package – different service combinations of landline and mobile telephony, internet and digital television).

Customers will bring their future decisions about the purchase based on the collective assessment of impressions regarding the contacts with the company (sale, delivery, quality, price, service activation, reclamation politics...) or in some cases based on a single bad impression.

THE BENEFITS OF LOYALTY

Customer loyalty is mutually needed and beneficial. A loyal customer brings Telekom the following benefits:

- It is more expensive to attract a new customer than to retain the existing one – customers already have the knowledge of the service they want, they know what kind of relationship to expect with the employees at retail places, they know about new services and offers and they know how to get information they need (call centre, company's web site, information for users given in the telephone menu).
- The role of service volunteers – they carry out a positive verbal promotion for their friends and family, they advertise for free the service they use, and this kind of advertisement has a much greater response because it is conducted on a personal level.
- They expand the interests to other, completely new or additional services – if the customer had used ADSL internet it is highly possible that, in time, he would show the interest for IPTV as well.
- They are ready to share information with the company and in that way directly participate in researches carried out by the company in order to correct or adjust the existing services according to customers' needs.
- They affect internal satisfaction so that employees become aware of the fact that customers are, among other things, satisfied with their work and like that employee's satisfaction becomes stronger.
- Key benefit is the increase in profit made by repeated purchases – loyal customer will repeat purchases or buy new services by expanding his/her interest to an entire offer in the framework of the company.
- They are less responsive to price changes – if the customers have trust in the company then they will stay faithful even during the increase in prices, but they will also have certain discounts when repeating purchases.

For a loyal customer Telekom provides the following benefits:

- Constant quality of service/offer
- Reliability and trust because a customer knows what to expect based on an already built customer relationship
- Special rewards – rewards for loyalty in loyalty programs, possibility of paying in instalments, phone for 1 RSD...

INTERACTION WITH CUSTOMERS AND OFFER ADJUSTMENTS

Interaction with customers is a necessary precondition for the development of a retail company. It represents not only an enhancement of offer, but also an improved relationship between company and customers. Through this kind of interaction the company gains information about current needs and new customer needs, it re-examines the existing offer and if it is necessary conducts its correction and adjustment and it carries out new offers by using marketing and experience. In this way the customer becomes aware that he/she directly affects the offer, thinks of him/herself as a partner, and has a sense of an increased satisfaction because the company takes notice of his/her needs and a sense of satisfaction because of the fulfilment of these needs.

Interaction is a mutual activity or the influence of the customer on the company and vice versa. By conducting researches about customer needs and their behaviour, the company analyses and finds out about their clients' expectations and their perception of services, and this enables a segmentation of customers and their loyalty. It also gives guidelines on how to behave when a customer has an objection, i.e. which strategies the company should apply in case of a dissatisfied customer.

Telekom applies different types of communication and collection of data and information from the customer:

- Direct communication in customer services when a customer during a presentation of offer provides a company with information and attitudes. This is accomplished during a purchase, through a conversation that refers to discovering new customer needs.
- Information about the perception of some other offered service when the purchase is almost finished and advanced sales techniques such as Cross Selling and Up Selling are applied.
- Data obtained by conducting surveys on the company's web site
- Data obtained by registering online requests on the website or a custom user zone in which users can post a question and get an answer to it
- Data obtained via social networks: facebook, twitter, personal social networks etc...
- Data obtained by the analysis of objections, applications and customer complaints...
- Information from forums that deal with telecommunications, customer protection, individual segments of service...
- Researches by agencies that are professionally engaged in this business
- Data collected from software packages – applications in which customers' requests are recorder which provide information about the behaviour of customers, the number of repeated purchases, preferred payment method,

preferred services segments, increasing the need for new offer or new services and tariff packages.

After collecting and processing data, this company in an excellent way applied their strategy which aimed at retaining the existing and winning over new customers and that directly affected the increase in profit. Here are some examples:

- Mobile telephony segment: by interacting with customers the company came to the conclusion that the existing MIX tariff profiles, which offered customers a combination of traffic in terms of minutes of calls to all networks in the national traffic and a number of text messages, no longer meet the needs of customers. So they introduced new tariff profiles for users that, in addition to the above, also offered a certain amount of traffic for data transfer - internet via mobile phone
- A segment of land-line telephony and Internet: instead of the existing ADSL internet offer with a dynamic and static address and a flow of 5.1 Mb / s, there's the new, customized offer that has a flow of 10.1 Mb / s to 100/2 Mb / s
- Multimedia segment: after offering a basic IPTV channel package, the offer has an expansion of additional channel packages: Arena, Fun, Pink, HBO...

CUSTOMER SEGMENTATION

By analyzing and researching its customers' behaviour, Telekom performed a segmentation that helped them to adjust and personalize their offer in accordance with a certain group of customers. In addition to the segments that are imposed by the type of service you use, different and special, i.e. specific groups can be distinguished.

According to the basic division, all users are divided into two segments:

- Business Segment
- A segment of residential or private users

According to the services used, the following service segments can be differentiated:

- Land-line telephony
- Mobile telephony mt: s
- Internet ADSL
- TV - IPTV (Internet Protocol Television)

Within the services offered to residential customers (private individuals) the segmentation is as follows:

- Prepaid
- Postpaid
- Cost Control

Prepaid users are the ones with whom Telekom strives to build up long-term relationship, most often to transfer them into the segment of post-paid users. That is why the post-paid segment was given special attention and by continuous interaction with the users in this group the offer is constantly improving.

As a result of this strategy, Telekom had or still has certain offers for the following segments:

- For certain areas: tariffs which at very reasonable prices allow calls to a certain service area of a public cellular radio signal of the phone operator. These are rural areas most often. With this offer the operator is significantly ahead of the competition and, with great savings that the customers are provide with in this way, exhibit excellent strategy not only for achieving positive long-term relationships, but also for opening the door to all new customers with low prices and the best recommendations from loyal users.
- For a particular social group such as sport fans groups – Telekom offers My Team tariffs (Partizan post paid, Red Star post paid) that in addition to a very favourable price of traffic to 5 selected numbers, also offers a free access to certain web sites for monitoring the results of sporting events and the website of the selected club
- For students and excellent pupils: with the appropriate certificate that proves they belong to this group, customers are provided with benefits in which their operator pays half the subscription
- For people with disabilities - for visually impaired, deaf and those with other types of disabilities the offer is tailored to their capabilities with minimum monthly fees

Through the existence of two previous groups Telekom JSC shows that it is also a socially responsible company, which is an additional reason for the customers to trust them.

LONG-TERM CUSTOMER VALUE

Telekom is a modern company that keeps up with the demands of an information time we live in and, pursuant to that, Telekom at its disposal has modern systems for the database management. Developed database enables segmentation of customers by, among other things, revenues they bring to the company, i.e. by the profitability of every individual customer. Customer profitability represents a profit value realized by the customer and reduced for the amount of all costs related to the same customer. Revenue can be observed through individual services/offers, but also on a summary level, i.e. as a sum of all the revenues gained from all services used by a customer regardless of the territory on which the customer uses or buys them: for example, one customer can use more than one service on different territories and each of them can be arranged and paid for in different cities. At the same time, this means that profitability must be observed not through a single service but on the level of the entire company.

The aim of Telekom is to establish that kind of relationship with the customer that will enable long-term customer profitability. As well as customer value for Telekom is being analyzed, additional values for the customer must also be considered.

ADDITIONAL VALUE FOR THE CUSTOMERS

Given that long-term relationships are based on retention of customers, Telekom, through constantly listening to their clients' needs, pays close attention to actions and programs for rewarding loyal clients.

There are three core values that a Telekom customer can opt for:

- Price of the service/product
- Quality of the service/product
- Service the customers are provided with (In the Telekom management customer service refers to all the activities that create a customer experience (offices-retail places or customer service centre; technical services that install and maintain the service; caring service and contact of the centre...))

By applying the price politics and by a constant research in the field of market and competitors market, Telekom JSC stays a tough competition as evidenced in the long-standing position on the telecommunications market. This company continuously works on a constant improvement of the network quality, whether it is on the coverage of mobile radio signals (mobile phone network) or the land-line infrastructure. For the services they provide, beside the guarantee for the equipment such as mobile phones, Telekom also enables an equipment maintenance which is a precondition for the service delivery (internet modems, STB devices for IPTV).

In the segment of mobile telephony, Telekom submits an offer to its loyal customers and that offer implies a purchase of a mobile phone device at a more favourable price than the one offered to new clients – lower phone price within the package, as well as paying the phone in instalments.

In the Internet segment, Telekom offers to its current clients certain campaigns in which a better flow rate is submitted at the price of a lower package, with the possibility of buying a tablet or laptop device.

The company offers packages with a number of handsets at a price of 1 RSD to its loyal business customers.

In addition to these examples, this company is famous because, during a prestigious Exit festival, its customers are, within their packages, offered with free tickets, and during certain sporting competition the company is giving away balls, T-shirts, travels...

The relationship between dissatisfaction and loyalty is crystal clear. Dissatisfied customer is someone who will potentially leave the company. However, if the

company trains its staff and prepares certain procedures in order to properly accept and react to customers' dissatisfaction, the chances not only to retain customers but also to increase their loyalty and satisfaction are great. It is necessary to accept every customer's justified complaint, application or objection as a chance to improve the quality of services/offers and to strengthen the relationship with the customer.

In this situation the customer can react in four different ways, hence there are four basic groups:

- Passive customers – ones that don't express their dissatisfaction at Telekom offices, they don't come to file complaints or requests and they don't transfer a negative experience by a negative written or verbal campaign against this operator
- Messengers – customers who don't spread out negative campaigns, but they do go to Telekom offices and make their complaints in the right way – to the employees. They respect the procedures this company carries out in situation like this and they are loyal regardless of dissatisfaction. They think that the existing negative difference in value they were received with, in relation to the one they expected, is a coincidence. This group is the most beneficial because it is ready to share experiences and information with the company, they don't agitate against the company and they stay loyal.
- Angry customers – the ones that react violently in case of discontent, complain in an inappropriate and unpleasant way to the employees, but also spread negative propaganda against the company and, on a personal level, quite often against the employees. Within their circle of social relationships, they transfer in a negative context their experience with the company to their friends, family and co-workers. They are often ready to leave the company when they are dissatisfied.
- Activists – the ones that complain the most, mostly because their character is like that and because they are like that in their private lives. They complain even if their complaint is not accepted because the company thinks it is not justified. Customers from this group will continue to complain not only to all company's employees, all the way to the top management, but they are also ready to contact associations for customer protection and similar organizations, in order to seek justice at court but also to spread a negative propaganda amongst their acquaintances and friends. Members of this group are usually the ones who transfer to a different operator, but because of their style of behaviour they will always complain and be dissatisfied, so it can happen after a while that they come back to the previous company.

In order to completely respond to its customers' requests, Telekom has to pay special attention to the application and continual enhancement of its strategy in situations of customer dissatisfaction. Dissatisfaction, i.e. discontent can be perceived in a certain number of customers. Discontent occurs as a consequence of a difference between the expected value and the delivered value, i.e. the value a customer got when purchasing/using a service and when that value is lower than expected. If the company doesn't react in the right way, these customers can decide to transfer to the company's competitors.

CONCLUSION

Concepts in which all the activities in the company are focused and directed towards the customer are the imperative of the modern companies' management. If they want a long-term realization of profit, they need to have a kind of strategy that will build up long-term relationship with the customers. Quality databases obtained by researching the market and customer behaviour are the basis for establishing the right strategy. Information that are an output of this bases, are also guidelines for discovering customer needs, correctional measures and innovations in terms of services and products offered by the company. Proper customer segmentation and respecting the value that customers demand, can lead to a stronger loyalty, i.e. strengthening mutual trust and positive sales experiences and this, in the long run, can lead to the establishment of mutual benefits: increased profit for the company, meeting the customer needs and enhanced customer satisfaction accomplished by a decrease in costs and an increase in value.

One of the representatives of modern companies on the Serbian market, which are successfully implementing a strategy to create long-term relationships with customers, is Telekom Serbia JSC. By researching its customers' needs, Telekom adjusts its offer in such a way that it stays a competition on the market and simultaneously retain the existing and win over new customers. By adding value to its services, by applying Cross and Up Selling advanced sales techniques, i.e. delivering cross-offer and enhanced offer of their services, by nurturing loyalty through different loyalty programs, this company keeps up with modern world trends of the application of CRM - *Client/Customer Relationship Management-a*.

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HOW TO USE SOCIAL MEDIA FOR BUSINESS

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ABSTRACT

Social media represent key tool for communication, connecting and creating relations between people (and brands) in last ten years. In XXI century, tête-à-tête communication has been replaced by virtual, long distance communication. Such a dramatic change in the way we communicate was accompanied by the change of way we think or do business. In following years, we can expect this trend to continue which will lead to social media becoming integral, and a very important, part of any business model. In the meantime, companies need to develop sustainable social media business strategies, which is easier to say than do. Numerous studies showed that majority of companies are facing challenges in designing effective social media strategy and even bigger problems in implementing it. Breakthroughs are necessary in developing tools which will help process data gathered in social media. Only strategies fed with such a quality data can prove to be more superior and secure stable social media business presence.

Key words: *New Media, Social Media, Communication, Business*

JEL Classification: *D83, L82*

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INTRODUCTION

The last decade of the XX century has been characterized by the appearance of new media that enabled: New ways of communication between people that opened numerous new possibilities, Gathering and storing knowledge at one place, in virtual space with theoretically unlimited capacity, Availability of countless information to growing number of people. Two new media from the end of XX century, internet and mobile phones, are just the starting point, the introduction to global revolution which, by changing the way we communicate among ourselves (and also as we communicate with brands (broadest definition of brands should be taken in this case, which assumes that brands are not only labels, but also: personalities, political parties, tourist destinations, festivals etc.)), started to change behavior patterns. That (r)evolution, with the occurrence of social media, literally, has exploded in XXI century.

Mobile phones/tablets and social media, so called new media, became cultural, sociological, political and economic phenomena of today! New media change behavior patterns; introduce new culture in the way we communicate and interact; transfer the process of creating, maintaining and breaking social relations into the online world; have growing influence on global politics; and their influence on economics is about to achieve expected proportions.

When someone, in general public, talks about the change in the way people communicate, he refers to, in the majority of situations, new communication tools that we have at our disposal now, but that didn't exist before. Dramatic jumps in technological advance in the last quarter of century made possible things that were, for common people, beyond imagination before that: Availability (for communication) in every single spot on the planet, Access to countless amount of information which are being updated with the latest data in real time, and changed in every second, Building virtual friendships that are gaining equal if not greater importance than meeting people vis-à-vis, Establishing (acknowledged) personal expertise and/or creating personal brand in virtual world...

All these new possibilities wouldn't exist without technological revolution in the field of communications, preceded by breakthroughs in the field of mobile telecommunications and broadband internet. New telecommunication advances made new ways of communication between/with people possible, everywhere and in every moment. That was the ignition for the process that is changing the world around us, changing the way we work, live, communicate, hang out; in one word – this process changes us!

In this new world, world of incredible opportunities for communication, huge amount of space was opened for marketers to act. Appearance of new media, mobile phones and social media, for communication with consumers coincided with the appearance of the phenomenon called advertising overload. Modern world is characterized with the omnipresence of commercials where modern consumer of commercial messages is faced with them in literally every situation in which it is possible. Translated to the language of numbers, it means that average user is exposed

to mass media up to 70% of time when he is available, every day (Newell, 2007, pp.53) Being exposed to mass media, in these days, means being exposed to commercial messages most of the time. That kind of advertising overload leads to consumer's hostility against commercials. That, in next iteration, caused natural reaction – a new phenomenon, called ad avoidance. Our brain's advertising overload, combined with aversion towards commercials that people have built, is of such a huge proportions that, apart from conscious (active) rejection of receiving any kind of commercial messages, our brain has adapted to new environment in such a manner that it independently started to avoid engagement with commercial messages. In other words, brain developed new ability called passive ad avoidance. On figure 1 we can see one of the results of research that showed that XXI century consumer's eye is “trained” so well that it can completely ignore commercial content.



Figure 1: Passive Ad Avoidance

Source: Evans, 2008, pp. 10

Namely, eye movement detection devices, used for this study ("Banner blindness"), produced maps of eye movement during page scans which show that participants in the study were able to very effectively avoid areas recognized as commercial (e.g. undesirable) content. Figure1 shows us that participant's eyes (driven by the back slice of cerebrum) put focus solely on informative content, while all the commercial information were more than successfully avoided.

That makes us think how impossible it is to communicate with modern consumers in traditional manner. In other words, new generations, raised under the influence of new communication media, demand new ways of communication with them by brands/companies. New world which arises, unlike the one we are abandoning, which we can name the world of “black lists” (because consumers of ads refused to communicate with those they didn't want to, e.g. they tended to put them on "black lists"), will be the world of “white lists” in which consumers will choose who they will communicate with, and where the initiators of commercial communication won't be companies anymore, but consumers (Bauer, 2013, pp. 272). The world of traditional media is not like that, and is not able to become that kind of place; it takes new media – social media and mobile phones (tablets), whose growing (inter)connectivity, portability, interdependence make them converge towards one new “supermedia” of the future in which all the possibilities of modern new media will be incorporated, even those not invented yet.

In the meantime, new media usage rates grow incredibly fast, year in, year out. While, at the beginning of XXI century, most of the users of new media lived in the developed countries (North America and Western Europe), in the second decade things have been changing. Unlike developed countries, in which new media usage rates growth is low or stagnates (because these countries are approaching levels of saturation of the market, where there is no more room for growth), in developing countries, which are slowly overtaking leading position, at least when it comes to the growth of number of users and the growth of overall number of users, those rates are extremely high. For example, according to the report of the well-known e-research company, eMarketer, almost half of nearly 2.5 billion users of social networks (which represent a part of social media, in which we include: Facebook, MySpace, LinkedIn...) live in Asia! The highest penetration rate of social media among internet users is recorded in the Middle East and Africa. Therefore, new media are becoming less and less privilege of the rich, and more of global phenomenon!

It would be logical that dazzling global rise in use of new media (especially among younger people, but more and more among other age groups, as well) is followed by similar rise in usage rates of social media and mobile phones for business. Nevertheless, in practice we face different results! While users tend to almost instantly adopt new possibilities presented by mobile phones and social media, usage rates of new media for business purposes have very slow growth and are not even close to being proportional to their popularity. Reasons for that are countless:

- New media represent, for majority of companies, unknown field with new rules,
- New media have been, for too long, perceived as a “kid toy” because they were used mostly by younger people,
- New media represent communication technique based on extremely fast technological advance and almost instantaneous adoption of new communication tools; that, however, wasn't followed by the adoption of corresponding metrics which is supposed to measure the effectiveness of communication using new media; as a result, we have very attractive space for communication, but with unclear effects of that communication,

- Ad hoc approach which characterized sales campaigns of XX century doesn't work in new media; new media demand long-term approach and permanent engagement; even in the case of long-term engagement, there are no guarantees what will be the commercial outcome;
- New media “space”, e.g. interaction happening in them, is impossible to control, unlike traditional media where companies/brands/marketers have complete control over the process of communication.

Still, the most important reason for low usage rate of new media for business purposes is the fact that new media carry certain, for users, very important personal note. New media is, in modern world of bombing users with commercial messages, the last space under which they have any type of control and which, for that very reason, has special, almost intimate, status for them. Taking in consideration the well-documented aversion growing number of users has towards ads, it's logical that they will hardly allow commercial content to access that space towards which they have special relation and in which they, even though it's, by its nature, virtual, spend large, and growing, amount of time. Because of the large amount of time that average user spends in new media, in XXI century, those users tend to be overprotective towards that space with special status and they want to have full control over it. Even if they would be willing to give up the control, users would do it only if they get something in return. That way of doing business is, however, completely new and unknown to companies used to one-way communication in which they transmit their messages and don't have to listen to reactions from the “receivers” of their messages.

Obviously, it's necessary that companies/brands establish more “vivid” communication with users of new media in order to reach consensus on the way they communicate because only in that case they can hope that the door to this “protected” space will be opened.

HOW TO USE SOCIAL MEDIA FOR BUSINESS

Even though there is evident variance in the usage of social media for the purpose of communication and/or fun and their business use, for what we can “blame” users as well as companies/brands, reasons for optimism still exist. Data from the newest studies show that companies/brands relations towards the use of social media for business purposes is rapidly changing in the direction of broader acceptance.

According to estimates by eMarketer, approximately 90% U.S. companies with 100 and more employees will use social media for business in 2015. Harris Poll's poll (carried out for Hootsuite) conducted at the end of last year showed that 88% of polled professionals consider social media presence important for staying competitive. At the same time, 84% of them thinks that social media helps processes of enhancing relationships with existing customers and engaging with “social” influencers. 81% of participants in poll sees benefit for company/brand in learning about its reputation in social media, while 72% of polled agrees that the number of departments using social media at their company is growing.

Study conducted in May 2015 by Social@Ogilvy (social media department of global marketing agency Ogilvy & Mather) shows that growing acceptance of social media, their wider incorporation in companies' business plans and more serious investment of companies' resources into "social presence" returns encouraging results, when it comes to users' interaction with brands. According to this study, 84% of social media users have some kind of interaction (like, follow, subscribe...) with brands or products/services, 58% of whom share those experiences with brands in their "social" environment. So called "promoters" represent special and important group for brands/companies – there are 19% of them, according to Social@Ogilvy study. Promoters are more active in following brands and their activities, more willing to recommend them and, in most cases, surrounded by individuals who share their opinion.

These results from the large number of research studies show that companies/brands are becoming more inclined towards more active presence/participation in social media which enhances their businesses in the sense of creating quality feedback from users. There still remains, nevertheless, the question of source of information which has customers' ultimate respect when they are making decision which product/service to buy. As an answer to that question we can use the poll conducted in the first half of 2015 by the most famous research agency in the world, The Nielsen Company. That poll was conducted in the form of comparative analysis of data gathered in the third quarter of 2012 and first quarter of 2015, with the idea of examining the changes of buyers' mood towards various sources of information (in the sense of their reliance on those sources of information) about products/services. For professionals who are into social media and their use for business these results are not unexpected at all. While drastic fall of trust in paid advertising, especially in TV advertising, was registered, social media is the only source of information which has importance for buying process that has double-digit growth of reliability. The only paid-advertising sources of information with "measured" increase in importance were video-sharing websites, but even that represents using social media for advertising, only in traditional, instead of "social" way (taking in account that the most popular, by far, video-sharing website is YouTube, which is social media).

Among social media, we can name two that might be identified as the best choice for brands who want to be "seen" (to be heard of). According to results of February 2015 research by eMarketer, Millennials (younger internet users (age 18-35) that represent the most active users of internet and social media; they are future of sale) are keener than any other age group to connect with brands via Facebook and/or YouTube. Next social media on that list (measured by percentage of participants who are willing to connect with brands using that social media), but with huge lag when compared to Facebook and YouTube, is Twitter. That's why this paper will focus on examples of using Facebook and YouTube for business.

HOW TO USE FACEBOOK FOR BUSINESS

“If you, as a marketer, had to pick only one social media channel to maintain a presence on, you'd have to go with Facebook” (Zarella, 2013, pp. 49). Indeed, Facebook is, by far, the best choice any company/brand can make in order to enter the world of social media, or will be the best choice for future companies' central point of gathering of social media users. Facebook's global popularity is extraordinary – according to the most recent data, it reached 1.5 billion (unique) monthly users and nearly billion daily users. Over 40 million small and medium enterprises maintain presence on Facebook. Facebook has superior targeting (of end-users, receivers of messages) tool, so it can be very useful as a traditional advertising tool. Kinetic's Q1 2015 Social Trends Report shows that average CTR (click through rate) for Facebook's business campaigns continues to rise year in, year out – this year's growth is remarkable 266%. Thanks to their better performances and higher value, video contents have especially high CTR – that's why companies tend to allocate higher portions of social media budget on them. That's in accordance with the afore-mentioned claim of YouTube's importance which is characterized, among other things, by good connecting ability with Facebook. These results tell us that potential of Facebook as a traditional advertising tool is not to be neglected. Yet, the only way to maximize results on Facebook is through engagement, e.g active participation in its “social life”. Incorporating social component of marketing on social media in Facebook campaigns is the only path that leads to optimal results.

Large number of companies recognized, in time, Facebook's potential and achieved results worth noting by investing relatively moderate amounts of money. Accent should be put on words “in time” because of the fact that even in social space stands the rule – early-comers have better chance of taking better positions, e.g. gaining better reputation. That, however, doesn't mean that it's too late for companies that haven't entered “the game” to do it now, on the contrary! Social media has its own set of rules that differ from those in traditional media –idea, imaginativeness, creativity and entertainment offered to customers are much more important, in social media, than the campaign budget itself.

One of the actions on Facebook that brought great media attention to its organizers with costs equivalent to those necessary for producing simple Facebook application and “spreading the story” about its existence throughout Facebook (which includes investing moderate amount of money in traditional app promotion on Facebook; the cost of whole “enterprise” was proportional to statistical error in marketing budget of such a big company) was “Whopper sacrifice” campaign, designed for Burger King. This represents, at the same time, an example how you can, by producing simple application and with adequate “social engagement”, achieve extraordinary results for company/brand with minimal investment. Idea of this campaign, with powerful viral effects, was to motivate Facebook users to “sacrifice” at least ten of their Facebook friends by erasing them from their list of friends. Company rewarded everyone who did that with a coupon for a free

Whopper burger (Zarrella, 2010, pp. 3). That campaign was total success shows us data – in less than a week, thanks to “viral spread” through Facebook, campaign “infected” more than 82 thousand people who erased 233,906 friends! And just when experts started to compete in glorifying innovative component of Burger King's business/marketing model and when they announced that new revolution in marketing is about to begin and the future is about to start today, the application disappeared from Facebook. What was the reason for that? The official announcement of Facebook states: “We encourage creativity of brands that use Facebook platform, but we have to make sure that applications meet user expectations regarding privacy. This application conducted activities against the privacy policy because it informed users that someone 'removed' a friend”. Taking in consideration that Facebook application that informs users when somebody deleted them from their friend's list existed at that time, it remains unclear what was the true reason for such a reaction by Facebook. What is, without any doubt, sure is that such a severe breaking of “social behavior” rules attracted more free media attention for Burger King, while Facebook got needless negative publicity.



Figure 2: Whopper Sacrifice Facebook Application

Source: Zarrella, 2010, pp. 2

Other, very useful, example of Facebook campaign is based on the idea of using Facebook group (or, in different case, fan page) for creating strong connections with target group. Credit card brand Visa established Facebook group called Visa Business Network couple of years ago with a very interesting idea of bringing people together

and turning them into group members – Visa decided to help small businesses to connect among themselves and with their users – all in one place. In order to further motivate users to enroll in group, Visa allotted two million dollars in budget for the promotion of group members on Facebook. According to company's statement, this Facebook-based site “can help small business owners easily tap into a global network of peers and advisers from among the more than 80,000 small businesses already on Facebook” (Weber, 2009, pp. 215).



Figure 3: The Visa Business Network

Source: <http://www.facebook.com>

This group, branded by Visa, offers small businesses three big benefits (Weber, 2009, pp. 215-216):

- Connect with others – let's quote one more time founders of the group: “The Visa Business Network is a simple way to find and network with other business owners for new business, best practices, advice or support”,
- Manage more efficiently – thanks to the partnership with The Wall Street Journal and Entrepreneur magazine, small business owners can “Ask the Experts” and connect with small business authorities by participating in Q&A forums; Visa is providing access to small - business news feeds, videos, blogs, and editorial commentary about issues such as cash flow management, new ways to attract customers, and cost management,
- Grow the business, which may be achieved by connecting with hundreds of millions of Facebook users and tenths of thousands of small businesses on Facebook.

In the end, it's worth mentioning that Facebook might be very useful in cross-platform strategies in which Facebook, according to the words of Jason LeBar, Head of Entertainment Measurement for the Facebook Marketing Science team, “can help marketers ensure their messages go where their audiences are, reach target audiences more efficiently and drive incremental reach for hard-to-reach segments”. Research conducted by The Nielsen Company in March 2015 (LeBar, 2015, pp. 7) showed that traditional media and social media campaigns, in this case TV and Facebook campaigns, can be complementary and give superior results compared to traditional advertising campaigns, which makes sense since people tend to spend more and more time on social media and less and less on traditional media.

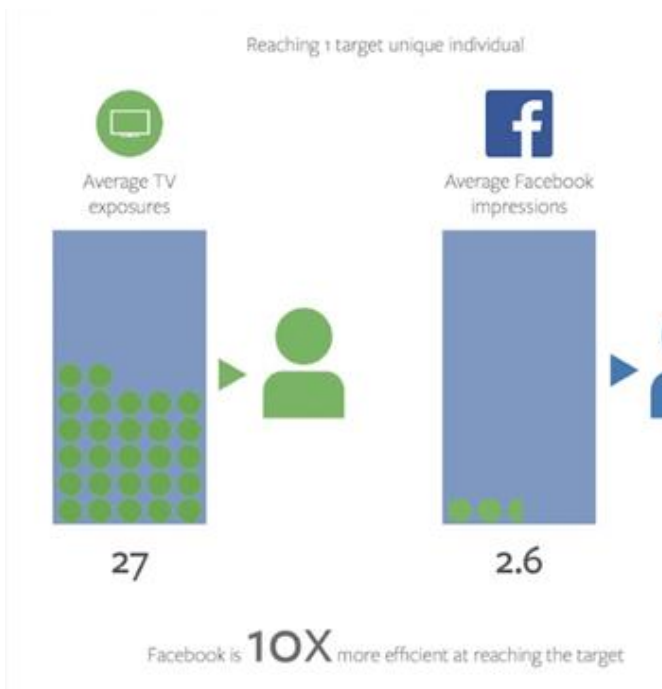


Figure 4: Facebook vs. TV

Source: LeBar, 2015, pp. 4

Key findings of this research were (LeBar, 2015, pp. 2):

- Use of Facebook extended the unique reach of the target audience of the TV plans by an average of 20%,
- The ability of Facebook to accurately target audiences and manage frequency resulted in average of ten times higher efficiency in building unique reach when compared to TV (Figure 4)
- Facebook helps target hard-to-reach audiences and drives incremental reach among segments that are harder to reach on TV alone, such as younger audiences (Millennials).

The campaign organized by U.S. premium cable network, STARZ, for promotion of its new drama series “Outlander” may serve as a successful example of the use of cross-platform strategy for extending the reach of target audience. Thanks to the ability of Facebook to complement TV, campaigns final reach was extended by 90% compared to the result that would have been accomplished without the use of Facebook. Facebook campaigns accent was put on females age 25-54. As expected, Facebook showed especially good results in driving incremental reach among segments that are harder to reach on TV alone. The highest incremental reach was among women age 25-34 – outstanding 161%! Furthermore, 29% of the people reached on Facebook were light TV viewers, which would be almost impossible to reach by TV campaign itself.



Figure 5: STARZ drama series “Outlander”

Source: LeBar, 2015, pp. 6

HOW TO USE YOUTUBE FOR BUSINESS

Content diversity, in combination with user base that covers almost all age groups, offers incredible possibilities for targeting on YouTube. For that very reason, when the majority of users think of digital video, they most commonly have YouTube in their mind. Studies conducted, like the one from 2012 by comScore, confirm what every user already intuitively knows – video platform No. 1 in the world is YouTube (No. 2 is Facebook, which is one more demonstration of the importance of these two social media). 2013 AYT Market Research study speaks in the best possible way about YouTube's popularity – it showed that nearly half internet users spend time on YouTube at least couple of times a week. If observation period is extended to at least couple of times a month then data shows

that vast majority of U.S. internet users (almost 75%) use YouTube at least that much. Opposite to that, nearly half of respondents claimed that they very rarely or never access any other video-sharing web site. So, according to this study, not only that YouTube is the most popular video-sharing site, it doesn't have single true competitor, apart from Facebook (the only thing that has changed since 2013 is that usage rate for video content on Facebook is growing), with whom it's well connected and which is social media, as well.

EMarketer conducted a research in 2014, trying to find out which techniques are the most effective for attracting viewers to watch digital video on social media. These are the results:

- The largest percentage of marketing professionals (60,9%) that participated in the research said that the most important thing is to target viewer's interest,
- 21.9% of respondents thought that the most important is to make the ad entertaining,
- Next component, according to 7.8% of total responds, a video should possess, is being educational/informative,
- 4,7% polled marketers considers humor the most important,
- While 4.7% respondents would decide to use famous actor/personality in other to make ad more attractive.

These findings are, in principle, in accordance with the recommendations given by Larry Weber who finds that video content, in order to be successful in social media world, needs to be either informative or educational or entertaining or all three (Weber, 2009, pp. 195).

Blendtec's series of video clips that caused a revolution on YouTube presents an example of successful YouTube campaign which, to some extent, breaks the rules established by the aforementioned eMarketer research (from 2014). Taking in consideration that Blendtec's "Will it Blend?" YouTube campaign, that made this small, unknown company from Utah a global phenomenon, exists for more than ten years – we could easily say that this particular campaign is the one who is/was creating rules for success on YouTube, instead of trying to fit into existing rules. It could easily be said that U.S. Midwest Company, Blendtec, represents the best example of using YouTube as a promotional tool – even more, as a primary sale & marketing tool. Before Blendtec started with its video campaign, in October of 2006, only the narrow circle of buyers knew about the high-performance blenders that Blendtec was selling. Even they didn't know anything about the "weird" habit that owner and CEO of Blendtec, Tom Dickson, had – in order to test his blenders, he pulverized anything that comes to his hands in them – from pieces of marble to Rubik's cubes. Noone would find out if there wasn't for company's Marketing Director, George Wright, who had a brilliant idea for a series of viral video. They started shooting videos in which the main character, Tom Dickson, melted anything they could think of – iPhones, iPads, Nike snickers, Coke cans, Transformer toys, TV remote controls etc. – and posting those video clips on company's YouTube channel, which they named "Will it Blend?".



Figure 6: Will it Blend?

Source: <https://www.youtube.com/user/Blendtec>

If we compare Blendtec's campaign with the way this type of campaigns are suppose to be run, according to eMarketer's research from 2014, we would notice that they are not very much in accordance. We could hardly say that Blendtec's campaign targets interests of large number of viewers, its educational/informative component is questionable, and company's CEO, Tom Dickson, hardly fits into the profile of famous personality – he even doesn't fit into the profile of a person any company would put in the commercial for its brand/product. Nevertheless, after only a month of “campaigning”, with the initial investment of 50\$, Blendtec's blenders sale rose by 400%. That was followed by numerous interviews for some of the most influential newspapers, magazines and TV networks in America and globally: The New York Times, Wall Street Journal, Esquire, Business Week, NBC, CBS, Fox, History Channel, Discovery Channel... With 825 thousand subscribers and over 265 million views, “Will it Blend?” became one of the most famous channels on YouTube. Some of the Blendtec's channel clips like “Will it Blend? iPad” with 18 million views, may be put in the group of extremely popular videos on YouTube. That brought global “glory” to company, as well to company's CEO, Tom Dickson, which, naturally, had its positive repercussions on financial results. After nearly ten years, video content on “Will it Blend?” YouTube channel didn't lose any of its initial actuality, creativity and humor – on the contrary. Recently, in one of the newly posted video clips, Tom Dickson blended “Hillary Clinton's e-mails” (connected to recent scandal U.S. presidential candidate, Hillary Clinton, had with e-mail "leak") on the set of Bloomberg's “With All Due Respect” show. During melting, he commented that he did it “faster than Hillary already did” because “pulverizing politics can be quite a rush”. Humor, entertainment, authenticity, originality and creativity are often capable of creating users interest, even if it didn't exist before.

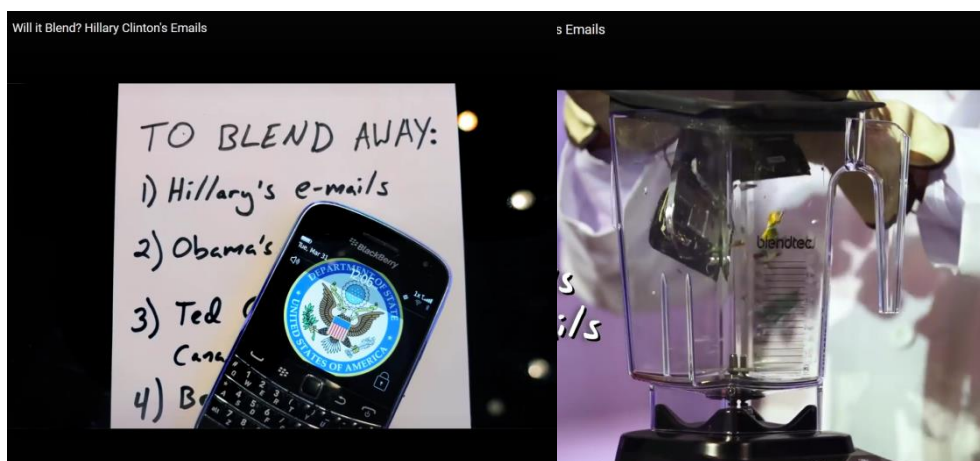


Figure 7: Will it Blend? Hillary Clinton's Emails

Source: <https://www.youtube.com/watch?v=TwHOGON-kxE>

Like Facebook, YouTube can be used for cross-platform strategies. Sneak previews of Super Bowl commercials (American football championship game) which are usually posted on YouTube before the championship game can serve as a good example of “cooperation” between YouTube and classical TV campaign. During and after the game, hundreds of thousands of people jump online to debate about the commercials, share their favorites, see what reviewers say, and add their voices to the discussion (Weber, 2009, pp. 194). It's not unusual that, after the game, video clips with some kind of mix of Super Bowl commercials appear on channels of “ordinary” users. Those clips tend to gather thousands, sometimes hundreds of thousands of views. The unexpected and unusual part is that these viewers were clicking to watch five to ten minutes of nothing but ads!

CONCLUSION

In modern world, advertising content is, literally, everywhere we look. What would be the recipe for companies, in a world overloaded with ads, to make sure that their creative effort is noticed? By going where their users are spending more and more of their time – in digital world, e.g. in social media world. According to McKinsey Global Institute's recent report, organizations can unlock up to \$1.3 trillion in annual business value using social technologies. That's consistent with the findings of University of Chicago, Associated Press and American Press Institute February 2015 research, which showed that 26% of US millennial internet users rely on Facebook for researching products and price comparison, while another 18% rely on other social media. Thus, almost 50% of youngsters base their buying decisions on “social experiences”.

Companies are aware of these facts and majority of them put strong efforts in developing sustainable social media business strategies. However, number of companies is facing numerous challenges in choosing proper, effective strategy and its implementation. In Harris Poll's "Social Business Benchmark 2014" global online survey (in which participated more than 750 companies from around the world) couple of key themes emerged which are related to challenges that companies face in social media:

- Many of the benefits of social media are also the source of perceived challenges: while 84% of respondents consider enhancing relationships with existing customers as social media's value, 67% cite assessing the effectiveness of social media activities as a challenge; moreover, while around 80% companies value the ability to monitor external conversations about their company and to learn about company's reputation in social media, even 60% consider taking data gathered from social media and turning it into something actionable as a challenge,
- 62% of participants in survey say designing a social media strategy is a challenge, while 43% cite creating buy-in among executives as a challenge,
- That alignment across departments is a challenge said 54% of respondents; opposite to that, only 30% of participants claimed that their social media strategy is very/completely aligned across various departments within their company; even among those who say their strategy is at least somewhat aligned, 64% cite aligning their social media strategy across various departments was difficult,
- Social media, while important to the bottom line, still presents challenges: while 88% of companies agree their organization's social media presence is important to stay competitive and 86% consider analyzing data about their social engagement can help their company improve its bottom line, only 41% of companies that participated in the survey agree their organization fully capitalizes on the data captured by social media.

It's obvious that three key findings single out from the above-cited data:

- Business world realizes the importance of social media and that has been materialized in stronger presence of brands/companies in social media,
- creation and implementation of business strategies in social media still presents a challenge for many companies, which is, in the number of cases, the consequence of the fact that
- The majority of companies are still not capable to manage, in the most productive way, data gathered in "social" world.

Hence, it's clear that, in the future, professionals will have to work on developing tools which will help in processing data gathered in social media and on creating more superior strategies of social media business presence. Global brewer, Anheuser-Busch InBev (ABI), might be considered as a good example how to succeed in social media, because they achieved twice the digital ROI as its peer competitors and compared to the consumer packaged goods (CPG) industry average thanks to a successful digital strategy ABI created and implemented. ABI

recognized young people age 21-27 as target group for their campaign and then focused all their efforts on translating data-fueled insights into effective marketing and media execution that leads to strong ROI's. As Harry Lewis, Senior Director of Consumer Connections at ABI, said: "Developing a clear performance management strategy is essential to having successful digital advertising campaigns. There's no magic here – it just takes good data, discipline and process."

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VIRTUAL TEAMS COMMUNICATION MODEL

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ABSTRACT

The traditional concept of organization has been increasingly orienting towards 'virtual organization'. A new form of virtual business opens new challenges for everyone involved in the chain of forming and activation of the cyber teams. Learning and adapting to new communication and business methods is imperative for the survival in a business environment. However, it is the deep conviction of the authors that employees are still not quite ready to give up the conventional forms of organizational communication. The younger generations, which grew up with the Internet, find it easier to accept new forms of virtual businesses in comparison to the older generations who were introduced to the new technologies in their later years. But, no matter what form of business we are addressing, for the successful realization of business objectives, we need motivated employees.

Key words: *Communication, Traditional Concept, Virtual Business, Motivated Employees*

JEL Classification: *J24, M15*

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INTRODUCTION

Modern business is an integral part of the environment characterized by high degree of insecurity and the need for faster communication. Effective communication within the organization is defined as a tool for coordination and control of a team work, individual socialization and group integration.

Communication is important for achieving the projected goals of the organization and adaptation to the changes in the organizational culture, because it encourages adequate participation of workers and the achievement of organizational goals. Good communication stimulates ideas and creativity of employees. This can be achieved only in those collectives where the management is educated and applies communication skills that are necessary for establishing a two-way communication. Communication methods, as well as the position of man in a social setting, have been simultaneously changing with the development of human society and its technological advancement.

Internet is recognized as a business tool also. A new form of virtual business opens new challenges for everyone involved in the chain of forming and activation of the cyber teams. Learning and adapting to new communication and business methods is imperative for the survival in a business environment.

This new form of organization requires special communication skills and knowledge of new technologies. It is a challenge both for managers and for employees who are involved in contemporary business through virtual teams.

MODERN ORGANIZATIONS

The modern economy is based on knowledge and latest technologies. Therefore, the traditional concept of organization has been increasingly orienting towards 'intelligent organization', 'virtual organization', 'organization based on the knowledge', and so on. The success of whole system is resulting from environment interactions. The value of the organization is constructed by people, their knowledge and their ability to use that knowledge.

The attraction of the Internet becomes new phenomena of the human community. Virtual world offers pleasure to a communicator positioned by his own choice in the computer world, as opposed to dissatisfaction or disorientation of the real world. The impact of new technologies suggests that our understanding of what makes up a primary human group needs to be radically changed. Interactive-group-communication no longer requires *face-to-face* communication and is not restricted to a few people. The extent to which virtual communities are dependent on interactive communication represents a significant departure from the more traditional mass media forms (Newhagen, Rafaeli, 1996). Virtual communication has significantly affected the nature of social life and social interaction at the end of the 20th century. Cyber-culture shows an inherent connection between technology and society.

Online communication can be seen as “cultural aggregations that emerge when enough people bump into each other often enough in cyberspace” (Rheingold, 1994, p. 57), for information exchange, making new contacts and raising awareness about new ideas (Wellman, 2000).

Communities of professionals and others who share knowledge and resources are often referred to as ‘communities of practice’ (Wenger, 1998). Online people do almost everything that people do when they get together, but they do it with words on screens, leaving their bodies behind, independently of the local time or location (Rheingold, 1994).

“The skill of a communicator to establish a good communication relationship with others determines his/her position within the social group. Communication is a way of exchanging ideas, attitudes, values, opinions and facts, a process that requires the sender which initiates the process and the recipient, which completes the communication link.” (Baltezarevic, Baltezarevic, 2013a, p. 433). Belonging to a group brings a certain sense of self-evaluation. This phenomenon not only identifies one with a particular group, but also provides the experience that the group bestows some special qualities, thus making one stand out from the others.

Communication represents the process of creating and exchange of information within the organizational network of people, with the purpose of finding the best communication modality in the single organizational context. Organizations can basically pose quality human resources in terms of their professional knowledge and expertise, but, also unsatisfactory levels of realization of strategic goals. Possible causes can be the insufficient communications potential of the employees.



Figure 1: Successful communication model

Source: <http://centerforriskcommunication.org/organizational-change-communications-strategy/>

Successful communication model (Fig. 1) is based on collaborative techniques one-on-one or in groups with organizational leaders. Organizations have to achieve communication system which include engage of all organizational members with open information flow because it provides support to management by employees and builds confidence in the organization's goals.

Communication is the basic element of any system of work organization and management of people. Systems of work organization and management have always been linked to the group way of life that is impossible without mutual communication. The social interactions of millions of people around the world, along with the creation of their virtual identities, social relationships and communities, lead to the scenario in which the computer technology and virtual communication are actually forming the parallel society and the new virtual cultural space. Computer communication and the whole cyber-culture show an inherent connection between technology and society. These trends suggest that firms are acquiring more virtual characteristics than in the past. Even firms that may not look virtually organized on the surface are performing selected activities and processes virtually.

Despite all the changes in society the central issue in business world is still recognition of human interest and their work motivation, because without good results in this area, our chances of business success and competitive advantage are reduced. As we can notice virtual professional teams are consisting of self-motivated people with a collective vision, enabled by technology to collaborate in achieving a common goal – an innovation – by sharing ideas, information, and work product development, within not just any organizational work process; but a process highly dependent on creativity (Brown, Eisenhardt, 1995).

It cannot be achieved without social tie. The contemporary social model should be based on a high degree of social protection and education and knowledge of new technologies. The strategy must include methods for combating stress and harassment at work, as well as the measures to change the organizational culture and acceptance of ethnic and cultural differences.

Managers are increasingly challenged by the abundance of uncertainties and demands in their operating environments that have transformed the fundamental nature of competition. Many manufacturers recognize the importance of being able to quickly respond to these changes in competition, technology, regulation, etc.



Figure 2: The learning society

Source: The learning Society (2011)

Cisco networking Academy (Figure 2) promoted the learning society and tools which are necessary for the formation of knowledge-based society:

- **Connection:** Provide access to a shared learning infrastructure. Linking learners to information, resources, institutions and each other.
- **Collaboration:** embrace of new partners that provide authentic learning opportunities and
- **Innovation:** Mobilize new technologies, new approaches and new coalitions to transform learning into an engaging lifelong experience!

As world is in the process of transition from industrial era into an information and communication era, successful society is defined as a learning society. This new society demands employment and personal development of every individual (Baltezarevic et al., 2013b, p. 264). We are now living in times of global business activity and the knowledge economy. Management of knowledge (and innovation based on them) has long become an imperative for economic growth and development. The interest in knowledge management is increasing, as has long been clear that this influence is crucial for creating competitive advantage, economic growth and development. Knowledge must be a systematic process (Skyrme, Amidon, 1997) and represents the understanding of customers' needs and the business environment or the skills and experience of the staff. "The value of capturing tacit knowledge should not be underestimated. Having access to knowledge only when its 'owner' has time to share it or losing it entirely if the employee leaves the company are significant problems that threaten the value of the organization's knowledge capital" (Davenport, Prusak, 1998, p. 81).

Employment policies play a central role in this and it means that they need knowledge bank containing useful information and instructions on how to carry out key tasks. Technology alone isn't the answer to the sharing of knowledge – it has to be done only with people.

INTERNET AS A NEW COMMUNICATION MODEL

The Internet becomes new phenomena of the human community. Critics of the idea of the digital community are those who never put an effort to experience it because “it is impossible to understand something, until you have experienced it” (Kazlev, 1997, p. 2). The use of the Internet is a type of interaction that leads to the development of a multitude of user styles, some of which can be, with or without justification, considered pathological (Bugarski, 2005).

We can like or not new technology, but we have to accept them and to use them if we want to adjust to the new environment.

But, virtual communication can be recognized by only those who are ‘computer literate’ related to their knowledge of virtual communication and virtual technologies, and whether they favor virtual communication.

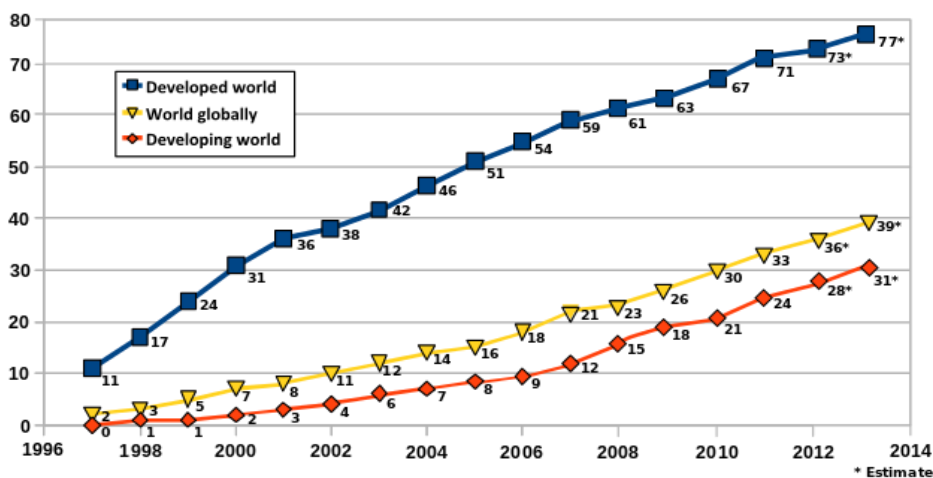


Figure 3: Internet users worldwide

Source: International Telecommunication Union, 2014

Research conducted by the International Telecommunication Union (Fig. 3) shows that 39 percent of the population at the global level, at the end of 2013, using the Internet. This percentage varies according to whether it is a data from developed world or results came from developing countries. It can be seen that in the countries of the developed world, 77 percent use the Internet as opposed to

developing countries where the situation is much worse as only 31 percent of the population is computer literate. These data undoubtedly show that knowledge affects the success and positioning in the global market.

According to data for 2014 in Serbia, more than 2.81 million people regularly use the Internet, which is about 450,000 more than last year, while the number of households that have access to "global network" rose to 62.8%. However, the gap between rich and poor habitants is high, and about 35% of those who do not have internet access at home say that access was too expensive. Research of the Republic Institute for Statistics showed that the computer has 63.2% of households, which is 3.3 percentage points higher than last year (Republički zavod za statistiku Srbije, 2014).

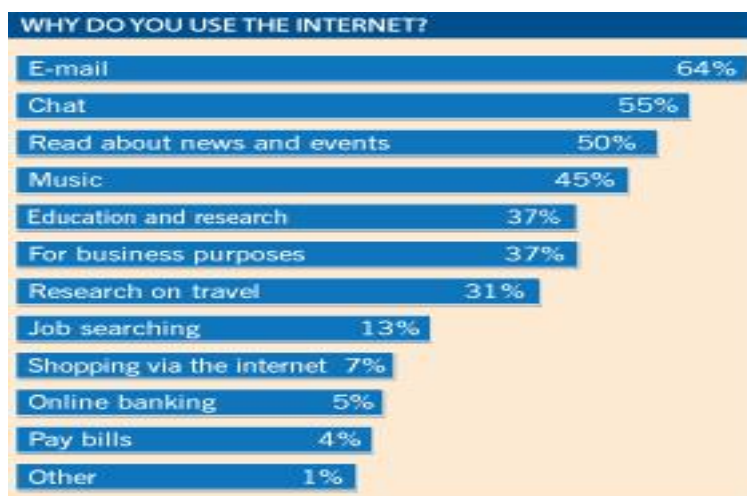


Figure 4: Reasons for Internet use in Serbia

Source: SIEPA, Newsletter, 2010.

The primary use of Internet in Serbia (Fig. 4). is still e-mail which is used both for personal and professional reasons. However, relative to 2005, chat actually experienced the greatest growth of use in Serbia: about 28.4% of respondents used Internet for chat in 2005, whereas 55% of respondents indicated they use this function in 2010. This can be attributed, in large part, to the growth in use of social networking sites such as *Facebook* and *Myspace*. Internet use also increased in segments such as 'business purposes' (29.3% in 2005, 37% in 2010) and for educational and research purposes, as well (Statistical Office of the Republic of Serbia, 2014).

Computer and Internet is changing the social structure and in addition to the classic human communities formed virtual communities that meet and conduct social interaction in virtual computer space (Jeftić, 2008). Virtual communicators are also producer and actors in our own lives temporarily in an altered form designed imaginary world. The Internet is undoubtedly one of the most provocative sociological and psychological phenomena. In addition, the Internet is a new phenomenon, a new virtual world of "reality".

In the virtual space “residents” through avatars simulate life in the real world, with the ability to change their appearance. How avatars are created by man and the virtual world represents a communicative environment. The success of virtual communities depends on how much “virtual citizens” to succeed within these communities achieve social cohesion and communication level.

VIRTUAL ORGANIZATION

Changes in the traditional forms of business entities in the virtual organization are not an easy process. Preparatory period means orienting existing business models to intelligent organizations. Intelligent organization should be seen as a safe link leading to the virtual forms of association and businesses. Globalization and advances in technology have created a space for communication outside defined geographic boundaries. Limited, ‘fenced’ space no longer exists. The entire planet has become a ‘communicative village’, and geographical distance is no longer an insurmountable barrier to the initiation and realization of the ‘business without borders’. We have moved away from working with people who are in our visual proximity to working with people around the globe (Johnson et al., 2001). In such organizations management is reflected in the ability for creating knowledge management systems to harness intellectual capital and create value. Main demands for them are: intellectual abilities; social and interpersonal skills and knowledge (communication, teamwork, decision making, taking responsibility).

As the interest in knowledge management is increasing, as has long been clear that this influence is crucial for creating competitive advantage, economic growth and development, the next step will be virtual organization. Intelligent organization should be seen as a safe link leading to the virtual forms of association and businesses. Virtual teams use electronic collaboration technologies and other techniques to lower travel and facility costs, reduce project schedules, improve decision-making time, and communication (Duarte, Snyder, 2001, p. 4).

A networked virtual team is consisting “of individuals who collaborate to achieve a common goal or purpose” (Duarte, Snyder, 2001, p. 5) and it is used “to cover a wide range of activities and forms of technology-supported working” (Anderson et al., 2007). They “are groups of geographically, organizationally and/or time dispersed workers brought together by information technologies to accomplish one or more organizational tasks” (Powell et al., 2004). Virtual teams, unlike traditional ones, however, must accomplish this by working across distance, time, and/or organizational boundaries and by using the technology to facilitate communication and collaboration (Duarte, Snyder, 2001, p. 5)

No matter how advanced the technology, the center of business success has always been a man. In order for a virtual team to be successful, people need to get to know each other and communicate. Managing virtual teams can often be more complex than managing traditional teams. Team members need to be informed and involved in the entire framework of a team task. Interaction is especially important

early in a team's life, particularly when the team is composed of people who don't already know each other (Mortensen, O'Leary, 2012).

In a modern business which transcends all geographic distances, often facing turbulent periods, success will come only to those leaders who are able to form teams made up of people who can fit into the business system and properly respond to all strategic goals. Leader must understand people and all their differences, must know how to communicate with and adapt to them, all of which must be quickly consolidated and implemented. This is the only way to meet virtual organization challenges and to confirm relationships within virtual team.

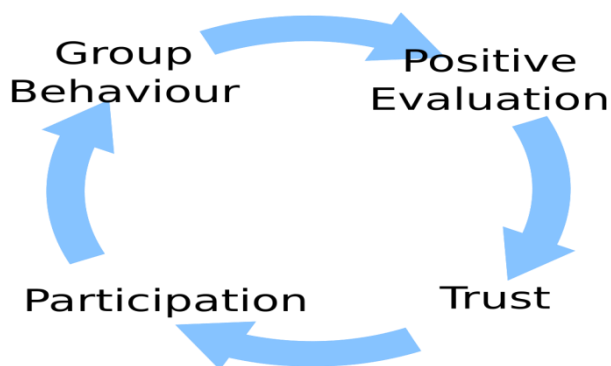


Figure 5: Managing Groups and Teams

Source: Managing Groups and Teams (2010)

From figure 5. it can be seen that for successful managing of virtual teams it is necessary to form such environment in which group member's through group behavior and positive evaluation trust each other. The connective tissue of the new forms of organization consists of the teams that share a common vision in the formation they are partaking in. The information is distributed and exchanged through communication channels. As an increasing number of organizations implement various virtual communication tools, face-to-face contact has shifted to virtual communication. Face-to-face contact facilitates the transfer of tacit knowledge (Bower et al., 2001). "The motivation is often "lying dormant" in an individual until "positively" provoked to be shared with others. Positive provocation is an emotion that is offered to a person, implying that the individual in question will be able to feel accepted, "loved" and understood by others" (Radovic Markovic et al., p.174).

The absence of non-verbal cues and tacit knowledge transfer makes communication difficult (Powell et al., 2004). The benefits of working virtually can only be realized if team leaders and team members are motivated to share their unique knowledge with each other.

CONCLUSION

Regardless of the choice of the business forms, we are discussing, the fact is that the social capital is equally important for both real and virtual ways of organizing and doing business. All organizations have their strategic objectives clearly definite: motivation, training of employees and creating a better organizational climate.

Success is possible only if communication is reaching the dialogue level, in which the views of all participants are acknowledged and exchange of ideas and knowledge exist.

High level of understanding and trust led by effective communication is an important and integral part of the organization. For members of social groups to feel satisfied and to freely engage in a deeper interaction, they need to feel safe and accepted in the organizational system they have joined. Work motivation contributes to the improvement of efficiency, effectiveness, creativity and quality of the work, as well as to the improvement in the quality of the working environment.

The man was thrown into the virtual space which, along with the initial enthusiasm about the opportunity to set out in the cyber community and quench the thirst for communication this technology enables, also brings various dilemmas as well as previously established face to face communication needs. The very essence of human survival has always been about communication. Effective communication and trust is more easily achieved in personal encounters, when people meet physically and slowly get to know each other, checking loyalty on a daily basis. Unlike traditional workplaces, the people who are involved in virtual social networks do not have enough time to realize the mutual connection of trust and experience, so there is concern that such a network does not lead to the exchange of knowledge, experiences and beliefs. But, the dominance of the global market demands increasing involvement of research and development teams and virtual organization is gradually becoming a part of reality. Virtual organization provides an opportunity for employees to be more independent and take on more responsibilities, instead of just working at the company. Virtual organizations are economically justified because they decrease operational costs and enable efficiency in response to the business requirements. Countries in the post communist area are still, most often, societies of closed structures, not recognizing their interest in achieving social values. The labor market is not working so that employees are forced to perform their duties in order to provide a bare existence. In such a society, employees are unfortunately, not motivated and do not show any interest in organizational or personal success. Particularly difficult situation comes when employees belongs to older population because it is much harder to them to get acquainted with new technologies. Also expressed is deficit of managers who are sufficiently educated and who have good communication skills. Because of all these circumstances, people have a problem with adaptation and resourcefulness in

the working collective. Therefore, the transition to a virtual form of business is considered extremely difficult challenge for the majority of the population.

Given that virtual organizations represent short term forms of association and that they last until the realization of the set goal, it is most likely that lasting friendships of people connecting in such a way cannot be discussed.

Modern man is not yet ready to give up face to face communication and traditional forms of business. The need for physical contact is still present even when the computer screen goes dark, and we are faced with the real world. A man must seek and find communication's compromise.

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PART II.
BUSINESS & LEGISLATION AND
TRANSFORMATIONAL GOVERNANCE



COOPERATIVES IN THE WORLD AND IN THE SERBIA: DEVELOPMENT FUNCTION IN THE LIGHT OF THE NEW LAW ON COOPERATIVES

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ABSTRACT

The authors analyze and present an overview of international, European and comparative history of development, legislation and practice of the cooperative sector in the world, Europe, and Serbia. The paper analyzes some development problems and advantages of cooperatives. Analyzing legal, strategic and institutional basis for the regulation of cooperatives. The analysis starts from the global financial and economic crisis, which is inevitably reflected in the development of cooperatives in the world and in the Republic of Serbia, whose development is accompanied by chronic problems, due to the lack of systematic and continuous measures of economic and cooperative policies. This paper contains proposals for resolving of the existing problems of cooperatives in Serbia that are based on the adoption of new regulations in the field of cooperatives in Serbia. The new legal regulations should facilitate and encourage employment, education and establishment and development of cooperatives.

Key words: Cooperative, Cooperatives Organization, Historical Development, Advantages, Law

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INTERNATIONAL, EUROPEAN AND COMPARATIVE HISTORY, LEGISLATION AND PRACTICE OF COOPERATIVE SECTOR

INTRODUCTION

European Commission sees the cooperative sector in the key role of protector and promoter of the European model of social economy, and as a very important factor in building and maintaining local "social (social) capital" - trust, mutual assistance and horizontal links between citizens and organizations.

The exceptional importance and contribution to the economic and social development of the cooperative movement can be inferred from the following facts: a) large parts of the population are members of cooperatives - cooperative b) the cooperatives are important economic factors of national economies, v) the cooperatives create and maintain employments.

The aim of this paper is to discuss the opportunity of a new legislation to encourage the growth of of cooperatives.

HISTORICAL OVERVIEW OF THE COOPERATIVES DEVELOPMENT

The first forms of cooperative organization, created in the Europe in the middle of the 19th century. The craftsman organized the first forms of cooperative organization and after that, farmers, too. In the theory of the cooperative movement we can talk about more types of cooperative organizing, where we have three basic directions, which are, among other things, affected in the cooperative organizations in our region (Karan Pančić, 2015):

- **Rochadel's model**, originated in England after the strike of weavers in 1843, which included free entry and withdrawal from the cooperative, the equality of all cooperatives - the principle of "one member - one vote" (voting "heads"), regardless of a profit share to the extent of buying, cash payment, political neutrality and limited interest on the stake of capital (Karan Pančić, 2015; Kostov, 2006, 6);
- **Raiffeisen model**, originated in Germany_of the Weyerbusch 1847 and in 1848 during the big winter hunger, to supply the basic food (flour and bread) to the poor people. 1854 founded the first loan cooperative in Heddelsdorf, which is characterized by self-help cooperative to a limited territory, entering into a cooperative without stakes, joint and several liability, the introduction of excess profit indivisible cooperative reserve fund and dealing exclusively with cooperatives and free exercise of functions (Gnjatovic, 2010, 16; Kostov, 2006, 8);

- **Schulze-Delitzsch's model**, originated also in Germany in 1849 when the member of Prussian Parliament made sickness and funeral treasury, footwear and joiner cooperatives for joint procurement, and in 1850 made the loan cooperative, too. This way of organizing involved a large number of its members, a complete exclusion of state aid, the creation of a reserve fund that can be shared, attracting capital through the remuneration, welfare and limited accountability and business specialization (Karan Pančić, 2015; Kostov, 2006, 7).

In the world, cooperatives have a long history and tradition, but also a constant number or mass and significant economic role. The economic importance of cooperatives and cooperative organizations in the world and Europe growing permanent, especially in terms of global and regional economic and financial crisis, when cooperatives show a high degree of resistance to the impacts of these crises and the high percentage of survival on the market, including market expansion, growth and development. A lot of international organizations, including the European Union (EU) and United Nations (UN), recently recognized the growing role of cooperatives. Accordingly, the third volume of a series of reports PEPPER III from the 2006, (published by the European Commission), points out and explains why the new member states of the European Union and the countries preparing to join the EU, should promote cooperatives as a key aspect of economic development and social policy. United Nations, International Labor Organization (ILO - ILO) and many individual governments which are member states of the EU, recognize cooperatives as a key instrument for reducing poverty and achieving the Millennium Development Goals of the UN. The institution of the European cooperative have a great importance for the development of international, European and comparative legislation and practice.

About 800 million people are members of cooperatives. In the 1994, the United Nations estimated that almost 3 billion people, or half the world's population provides a livelihood by cooperatives. Cooperatives continue to play a significant economic and social role in the communities of these people (Nikolić, 2009, 54).

In an effort to unify the cooperative as a business-institutional form, the EU introduced a new type of cooperative. Bearing in mind that all member states of the European Union have brought their national laws on cooperatives, and that the European Economic Community (EEC) in 1983 passed a special resolution on cooperatives in the EEC (OJ S 128/83), also the UN General Assembly in 2001 passed a special resolution on cooperatives (19/12/01 (A) RES / 56/114), European Union finally, in 2003, adopted a special Statute of the European Cooperative Society - European Union Council Regulation on the Statute for a European Cooperative Society, in 22 of July 2003 (Council Regulation No. 1435/2003 on the Statute for a European Cooperative Society - SCE). In the same day, EU also adopted Council Directive which amending the Statute of the European Cooperative as regards to participation of employees (Council Directive No. 2003 / 72EZ supplementing the Statute for a European Cooperative Society with regard to the involvement of employees) (Nikolić, 2009, 124). Only the subjects of rights in the territory of the EU can establish the cooperative of Europe.

The importance of cooperative organization, specially recognized by the EU member states, which on that way resolved their problems, primarily social and economic. Cooperatives are recognized as the best model of fast employment and development less attractive economic areas. The field of cooperative business is legally regulated in many European countries, such as Austria, Germany, France, Italy, Portugal, Spain, Greece, Hungary, Slovenia, Croatia, Macedonia, Bosnia and Herzegovina, as well as in most other European countries. Namely, in the comparative law there are several methodological approaches to the regulation of substances cooperatives and cooperatives organizations. The first group includes countries which regulated these relations by laws (trade - e.g. The Czech Republic, Slovakia or civil - e.g. Italy); in the second group are countries that have enacted laws on cooperatives general character (Greece, Portugal, Croatia, Slovenia, Bulgaria and others.); in the third group - countries that have a more specific legislation in this area (Austria, Germany, France etc.) (Nikolić, 2009, 97-112).

In the terms of methodology, cooperatives and cooperative organizations in the Republic of Serbia, should adopt the concept of regulation of this matter by a law of general character which apply to all types of cooperatives and a special kind of cooperatives could arrange by a special law and by-laws, if the need arises, all in accordance with the recommendations of the International Cooperative Alliance. This approach was adopted in a lot of EU countries, and a significant number of countries from our region (Greece, Croatia, Slovenia, Bosnia and Herzegovina, Bulgaria, etc.).

COOPERATIVES AND THE COOPERATIVE ORGANIZATIONS IN THE WORLD - THE SO-CALLED. "COOPERATIVE MOVEMENT"

Large parts of the population are members of cooperatives – cooperative

- In Asia, 45.3 million people are members of loan unions – (source: Association of Asian Confederation of Loan Unions, Annual Report 2007/2008);
- Argentina has 12,670 cooperative societies with over 9.3 million members - about 23.5% of the total population (source: "Las Cooperativas y las Mutuales en la República Argentina", Instituto Nacional de Asociativismo y Economía Social (INAES), 30 June 2008);
- In Bolivia were 2,940,211 people, or one third of the total population members of 1,590 co-operatives (source: Diagnóstico Nacional Cooperativo (DNC), 2008 as reported in Boletín Informativo aciaméricas.coop N°65, December, 2008);
- In Canada, four out of ten Canadians are members of at least one co-operative. In Quebec, approximately 70% of the total population are members of cooperatives, in Saskatchewan 56% (source: Co-operative Secretariat, Government of Canada.);
- In Colombia over 4.4 million people or 10.7% of the total population are members of 7.833 cooperatives. The Movement reports about the annual growth rate of 11.27%, with 453,180 new members who have joined the cooperative in

2008 (source: CONFECOOP. *Gestión Empresarial Socialmente Responsable: Desempeno del Sector Cooperativo Colombiano 2008*);

- In Finland, S-Group has a membership of 1,468,572 natural persons which representing 62% of Finland households (source: SOK Corporation Annual Report 2004);
- Germany has 20 million people who are members of cooperatives, i.e. every fourth citizen;
- In Indonesia, 27.5% families are members which representing approximately 80 million private individuals whose are members of cooperatives (source: Ministry of Co-operatives & SMEs, Indonesia, 2004);
- In Malaysia, 5.9 million or 24% of the total population are members of cooperatives (source: Ministry of Entrepreneur and Co-operative Development, Department of Co-operative Development, Malaysia, December 2006);
- In New Zealand 40% of the total adult population are members of cooperatives and related organizations (source: New Zealand Co-operative Association, 2007);

Cooperatives are important economic factors of national economies

- In Brazil, cooperatives make about 40% of agricultural GDP and 6% of total agricultural exports. In 2006, the Brazilian cooperatives exported 7.5 million tons of agricultural products worth 2.83 billion US dollars in 137 countries (source: *Brazil-Arab News Agency, 2 February 2007*);
- In Colombia, 7,300 cooperatives participated with 5.61% of GDP in 2007 - an increase of 5.37% compared to 2006, and from 5.25% to 2005. These cooperatives employing about 110,000 people, with significant involvement in the affairs of the health sector - 24.4%, transport 18.3%, agriculture 8.3% and the financial sector with 7.21%. Cooperatives also provide 87.5% of the total micro credit operations throughout the country; provide health insurance for as many as 30% of the total population of Colombia and they are responsible for 35.29% of Colombian coffee production (source: *Sector Cooperativo Colombiano 2007*);
- In Denmark, consumer cooperatives in 2007, held 36.4% of the market of consumer goods (source: *Coop Norden AB Annual Report 2007*);
- In France, 9 out of 10 farmers are members of agricultural cooperatives, banking cooperatives have 60% of total deposits and 25% of the total retail market run by cooperatives in France (source: *GNC Newsletter, No 348, June 2007*);
- In Hungary, in 2004, members of the consumer co-operatives "Co-op Hungary" participated with 14.4% in the overall market of food and consumer goods (source: *Co-op Hungary, Statistical Data 2004*);
- In Japan, agricultural cooperatives reports are recorded turnover of 90 billion dollars, and the total number of farmers in Japan (91%) are members of cooperatives. In 2007, consumer cooperatives have reported a total turnover of 34.048 billion US dollars, 5.9% market share of food products (source: *Co-op 2007 Facts & Figures, Japanese Consumers' Co-operative Union*);

- In Mauritius, the agricultural cooperative sector have an important role in the production of sugar, vegetables, fruits, flowers, milk, meat and fish. Almost 50% of growers of sugar cane are grouped into cooperatives and the cooperative share in national production of sugar is 10%. Cooperative Society counted 60% of national production in the food sector – 75% of port consumption, 40% of potatoes and about 70% of green vegetables are produced by cooperatives. Also, the cooperative bus sector represents about 30% of the national bus traffic (source: *Ministry of Industry, Small & Medium Enterprises, Commerce & Cooperatives*);
- In New Zealand 22% of gross domestic product generated by the cooperative enterprises. The cooperatives are responsible for 95% of the market of dairy products and 95% of export market of dairy products. The cooperatives hold 70% of the meat market, 50% of the market supply farms, 70% of the market of fertilizers, 75% of the market of pharmaceutical products wholesale and 62% of the market grocery stores (source: *New Zealand Co-operative Association, 2007*);
- In Portugal approximately 3,000 cooperatives are responsible for 5% of GDP (source: “*Prime Minister of Portugal address to ICA Expo*“, 23 Oct. 2008)
- Cooperatives and communities in Scotland are responsible for 4.25% of Scottish GDP, The annual turnover of GBP is 4 billion and they have assets of 25 billion of GBP (source: *Co-operative Development Scotland web site, and "Co-operatives in Scotland: A powerful force", 2007*);
- In Sweden, in 2004, consumer cooperatives held 17.5% of the market (source: *Coop Norden AB annual report 2004*).

Cooperatives create and maintain employments

- In Argentina, cooperatives are responsible for providing direct employment for over 233,000 natural persons (source: *Instituto Nacional de Asociativismo y Economía Social (INAES), September 2007*);
- In Bolivia, 1,590 of cooperatives provides 32,323 direct and 128,180 of indirect jobs (source: *Diagnóstico Nacional Cooperativo (DNC), 2008 as reported in Boletín Informativo aciaméricas.coop N°65, December, 2008*);
- In Colombia, the cooperative movement provides 123,643 jobs through direct employment and more 537,859 jobs for workers-owners in worker cooperatives – with total of 3.74% of all jobs in the country (source: *CONFECOOP, Gestión Empresarial Socialmente Responsable: Desempeno del Sector Cooperativo Colombiano 2008*);
- In France, 21,000 of cooperatives provide over 4 million jobs (source: *GNC Newsletter, No. 348, June 2007*);
- In Indonesia cooperatives provide jobs for 288,589 of private individuals (source: *Ministry of Co-operative & SMEs, Indonesia, 2004*);
- In Italy, in 2005, 70,400 of cooperative societies was employing nearly 1 million people (source: *Camere di Commercio d'Italia, “Secondo rapporto sulle imprese cooperative“*);

HISTORICAL SUMMARY OF THE COOPERATIVES IN THE REPUBLIC OF SERBIA

Within its long history, the existence of the cooperatives in the Republic of Serbia has its ups and downs, depending on the economic and political conditions in that time. The notion itself regarding cooperatives had been rapidly expanding since 1840s, from Great Britain, France and Germany to Eastern and Southern Europe. The idea itself had reached Serbia during 1850s, and soon after a significant number of agricultural cooperatives was established. The first cooperative was founded in Backi Petrovac in 1846 in Vojvodina. This first cooperative in Serbia, second in Europe and the third worldwide, was founded by the Slovakian educator Stefan Homola and it was called "Газдовску сполок"(Kostov, 2006, 17, 19; Ševarlić, 2013).

Further, cooperatives, established following Raiffeisen model started developing as well instead of privately owned lenders that were interfering and slowing the rural development. This enabled the small land owners to expand their business, through buying more land under the more favorable credit conditions.

The cooperatives establishment immediately followed the establishment of the first cooperative in Europe, as the result of growing need of poor peasants to defend themselves from trade speculates. Having seen the various advantages, a large number of cooperatives was established in Erdevik (1855), Titel and Pivnice (1868), Glozane (1869) and Ruma (1883) (Kostov, 2006, 18-20).

Mihailo Avramovic established the first cooperative in Serbia, while first agriculture credit union on 29th March, 1894 in the village of Vranovo, near Smederevo (Gnjatovic, 2010, 20-21). Within the same year, the following cooperatives were founded in Azanja, Malo Orasje, Mihailovac, Ratari, Markovac, Saraorci and Glibovac (Gnjatovic, 2010, 20-21). The following year, The Association of The Serbian Agriculture Cooperatives was founded in Smederevo, yet it was transferred to Belgrade in 1898. This Association, along with other international associations became an integrated part of International Cooperative Association (ICA), founded in London, 1895 (Gnjatovic, 2010, 22-23). Three years later, the Law regulating this area was passed: the Law on agriculture and trade cooperatives, which was considered at that time as one of the most liberal among the corresponding laws in Europe (Gnjatovic, 2010, 22, 25).

The cooperatives prior to 1898 were founded under the formal agreement. More than 244 trade and agriculture cooperatives (for supply, processing, sales, cattle raising) had been established before 1900, during Balkan Wars additional 782 cooperatives were founded and within The Second World War the overall number amounted 4500 (Gnjatovic, 2010, 26-28). Cooperative sector within Kingdom of Yugoslavia had done the biggest land consolidation in Southeastern Europe prior to 1930. The cooperatives were regulated by legal instruments set by The Association of The Serbian Agriculture Cooperatives, and after establishment of specialized business headquarters they became an integrated part of the head cooperative, depending on the type (credit, supply, manufacturing, cattle). The whole complex of cooperatives organizations founded before The Second World War contained 358 cooperatives.

During 1930s, the youth and student union started expanding, with the aim of youth consolidation for the work on the part time and periodical job agreements. The first student union was established in Belgrade in 1931 and it was initiated by prominent professors. The job offered to the students included jobs for milk delivery, books and stamps selling and lighter physical jobs. Simultaneously, the number of trade, consumer cooperatives and especially agricultural cooperatives had been increasing as well and in the beginning of The World War II the overall amount was above 3500 cooperatives. The main reasons that led to the growing number of cooperatives were various. The Great Depression in 1929 completely devastated the national economy, especially agriculture sector, and cooperatives within them. During 1931, most of the earlier debts were written off, or refinanced following more favorable conditions. However, it certainly does not mean that Kingdom of Yugoslavia improved its situation referring to agriculture, but it had succeeded in smoothing the effects of the world economic crisis and in enabling the rural inhabitants to survive through cooperatives and to improve their economic position. In conclusion, during the Kingdom of Serbs, Croats and Slovenes, Kingdom of Yugoslavia (1918-1941) and considering the level of economic development of the country, cooperative organizations were well developed. The cooperatives were the most dominant ones and in 1938, they represent 82.7% of the overall number. Within agriculture sector, the most dominant ones were credit and supply cooperatives, however there was as well specialized process manufacturing cooperatives (corn, cattle-milk, wine, fruit, bee cooperatives). They had a significant role in labor development regarding agriculture, in increase related to production of goods and in solving social problems of the villages. Further, on 11th September, 1937, the Law was passed, The Law on economy cooperatives ("Official Gazette of Kingdom of Yugoslavia", number 217, on 24th September, 1937.) (Nikolić, 2009, 140).

The 1949 Law on cooperatives defined cooperatives as "economic organization within which the farmers associate in order to improve agriculture production, living standard and socialism establishing in the villages." This Law defined two forms of associations: general cooperatives and farmer labor cooperatives, being similar to the Soviet Union kolkhoz, i.e. simple farm gathering (Nikolić, 2009, 140). After the period of central planning and collectivization campaign, Yugoslav Government adopted in 1950 a new economic model.

A new system of workers self-management introduced economic democracy and workers involvement into an organization. The full responsibility for the organization was transferred to its employees that were given considerable amount of autonomy in enterprise management through appointed workers councils. In the same time the property of the state owned companies became social property, i.e. the workers could use according to their best interests, however it could not be sold, or transferred to the third party or alienated in any other way. This was a model very similar to union model with joint ownership, neither private nor state owned organization, the model common for many Western countries.

Within the agriculture sector, old cooperatives were modified in 1952 and partially integrated in the system of workers self-management. Thus, the key change related to union property annulment, because the Law only recognized social and privately

owned properties. Finally, different from the cooperatives in Western Europe, political parties in Yugoslavia maintained their right to intervene within the domain of business activities of the allegedly independent self-managing enterprises.

In the development of agriculture and farms, the nature and the role of cooperatives changed after 1957. With their varied business activities general cooperatives enriched and improved the entire farming life-including the economic, cultural and social aspects, becoming increasingly important as entities. Moreover, these cooperatives, introduced many innovations to the agricultural production, strengthening cooperative funds, significantly improving the standard of farmers and the quality of life on the farms (Nikolić, 2009, 144-145).

New reorganization was introduced in 1960, when the Law on collectivization and business association in economy was adopted. In the early 1960s, the first housing associations were established which catered for the housing needs of their members. Their development was extremely rapid and by the end of 1960s there were already 1400 housing associations on the territory of the former Yugoslavia. Consumer cooperatives, on the other hand, began to weaken in the 1960s, because their function was gradually taken over by the classical trade and trade union organizations.

The period after 1965 was one of the least favorable in the history of cooperative farming on this territory and it was rightly described as a "dark period" for farming communities in Serbia. In that period, the farming communities were used as a political instrument for the coercive collectivization of agricultural manufacturers and their properties with marked and long termed negative effects on cooperatives and their members. Economic reform in that year gave the opportunity to farmers to establish productive economic relations with other economic entities within the domain of processing and the turnover of goods (all economic entities had to do business following the labor economics, which resulted in significant decrease in the number of cooperatives. Smaller farming communities, as well as those which were not that successful assimilated with larger communities or other cooperative organizations, losing their cooperative identity in the process. During the 60s cooperative associations shared the same destiny.

Following the adoption of the Law education on unique chamber of commerce in 1962, cooperative associations lost their identity of a legal entity and continue working as cooperative farming subgroups within chambers of commerce which, pertinent to the abovementioned Law, became the true followers of cooperative associations and their properties (Nikolić, 2009, 145-146).

The 1963 Constitution Law SFRJ abolished cooperatives 'property and the cooperatives were transformed in different organizational forms, such as the agriculture cooperatives, joint labor organizations and self-management joint labor organizations, so that consequently, cooperative property (e.g. farming property, mills, slaughter houses, bakeries, etc.) became social ownership (Nikolić, 2009,146).

Following the adoption of Constitutional Law SFRJ in 1974, based on which the Law on the associations of farmers was adopted as well 1974 in 1979, cooperative associations once again adopted the status of legal entities in 1976, but without property, as the essence of cooperative business activities (Nikolić, 2009,147).

The economic and social reform in 1989 introduces radical changes within the economic and political system of the country. The concept of sustained economic development was accepted-the integral development of rural areas, in which apart from the primary production, non-agricultural activities should be developed as well. Within the framework of the agrarian policy, agricultural households, as independent economic entities, gained increasingly significant role, because all the obstacles that had limited their economic development had been removed. Within the plurality of ownership forms, agricultural households became transformed into farming communities.

The federal Law on cooperatives in 1990 ("Official Gazette", no., 3/1990), stipulates that the cooperative property, should be returned to former users from whom it had be taken without repayment, which was also confirmed by the federal Law in 1996 cooperatives ("Official Gazette", no. 41/96 and 12/98 and "Official Gazette RS", no.101/05 –and other Laws and 34/06).

Within the period of transition and accelerated privatization various problems regarding cooperative property emerged. The federal Law on cooperatives which was adopted in 1996 clearly stipulates the obligation that the property of former cooperatives, which was by various organizational and structural changes transferred without compensation to other users- who are not members of the union- should be returned to former owners. If the former cooperatives is no longer existent, the property should be returned to the cooperatives of the same type operating within the area of the former cooperatives.

The judicial practice of the courts in charge of handling disputes regarding the return of cooperatives property usually insist on the determining whether the cooperatives was the owner or, just the user of the property in question, which additionally complicates the resolution of this problem, especially if we take into account that from 1953 to 1988 all legal entities were treated solely as users of national production utilities. In addition, another unfavorable circumstance was the Republic Law in 1992, stipulating the guidelines and procedures of the determining and filing agricultural land in state and social ownership, completely disregarding the cooperatives property, i.e. the property in cooperative ownership. Consequently, a large number of cooperatives were in a poor economic situation, with chronic lack of capital, necessary for their business activities.

The amendments to the Constitutional Law of the Socialist Federal Republic of Yugoslavia in 1988, once again introduced cooperative ownership as equally accepted form of ownership. Instead of the former laws on the association of farmers, new laws on cooperatives were adopted: in Serbia 1989-the Law on cooperatives ("Official Gazette SRS", no. 57/89 and "Official Gazette RS", no. 67/93, 46/95 and 101/05 and other Laws) in SFRY in 1990-the Law on cooperatives ("Official Gazette", no., 3/1990) and Federal Republic of Yugoslavia 1996-the Law on cooperatives ("Official Gazette", no. 41/96 and 12/98 and "Official Gazette RS", no.101/05 –and other Laws and 34/06). In accordance with these legislative laws cooperatives are organizations established on the initiative of its members, who provide the financial means by their shares whereby their assets represent part of the cooperatives' property. Cooperatives are managed by its members through their management bodies: General Assembly, Managing Board and Supervisory Board. The aim of the policy makers was to strengthen the status of farming entities and

cooperative legal entities by enabling them to develop themselves as manufacturers and to be more integrated into trade.

In compliance with the Federal Law on cooperatives in 1990, the establishment of farming communities as independent legal entities was enabled, allowing the property of the former cooperatives which was transferred to agricultural enterprises to be returned to cooperatives. In accordance with the by-laws part of the core cooperative units is separated from the enterprise system and organized into cooperatives, whereby the majority of their property remains within the enterprises. Since, the majority of the property of cooperatives was not returned to cooperatives in accordance with the by-laws of this Law, the issue of returning the property of the cooperatives is left to be settled by means of the new Law on cooperatives adopted in 1996. However, the lack of efficiency and coordination between supervisory bodies as well as the inappropriate relationship towards ownership issues became the reason for the ineffective implementation of by laws pertaining to the return of cooperatives property even within the framework of this law which resulted in the minority part of the cooperatives property being returned in the cooperatives sector. On the other hand, the property which was not returned to cooperatives became jeopardized by the process of privatization of social i.e. state owned enterprises who owned that property and the rest was privatized. This was mostly brought about by the legal deadlines within which the privatization had to be completed. At the same time, the judiciary practice of the relevant commerce courts regarding the cooperatives property registered as social ownership and obtained through the efforts of cooperatives members and their business activities within the period from the 1st July 1953 until the adoption of the Law on cooperatives in 1990 refrained from transforming that property into cooperatives property.

Simultaneously with the transformation of the core cooperative units into cooperatives, the early 1990s marked the beginning of the establishment of new cooperatives by farmers who saw the potential for achieving their economic interest within cooperative organization. Our farming communities are commonly not economically strong organizations but they are vital for small and medium manufacturers, who could not operate without them, nor improve their negotiating positions and achieve correct terms for the realization to sell their goods on the market. The farming communities are also important for processing enterprise, trade intermediaries, end consumers, who all buy a vast amount of goods in one place through these communities, thus avoiding negotiating and trade with numerous dispersed agricultural manufacturers.

The Constitutional Law of the Republic of Serbia from 2006 ("Official Gazette RS", no. 98/06) recognized 3 forms of ownership: public, private and cooperative, enabling the legal background for the revitalization of cooperatives and the improvement of business activities of cooperatives in the Republic of Serbia. Strategic documents and announcements contain calls for the renewal of the cooperatives and proliferation of the so called the new generation of cooperatives which would be financed in accordance with the international principles and the practice of other European cooperatives, and thus be efficient and market oriented, socially active and oriented towards protection of environment protection.

In the modern literature dealing with cooperatives sector, the establishment and development of cooperatives in RS is often perceived as the so called contra cyclic phenomenon. The trend of establishing new cooperatives is very strong, especially within poor economic conditions, and it is easily abandoned as soon as the economic situation is improved, and good job opportunities appear. In the Republic of Serbia is totally opposite situation. The youth cooperatives were very dominant within the period from 1990 till 2000, within extremely difficult economic conditions and imposed sanctions, when there was a lack of new job opportunities for the young people. However, the reduction regarding their importance was followed by economic situation improvement and opening of the country towards foreign capital. On the other hand, agricultural sector has been gaining increasing interests by all relevant stakeholders.

Further, trend regarding cooperatives founding is presented on Table 1 following different periods.

Table 1: Cooperatives				
Cooperatives	Prior to World War II	1945-1989	1990-2000	After2000
Agriculture cooperatives	5,3%	17,1%	33,0%	44,6%
Youth cooperatives	-	25,8%	54,7%	19,5%

Source: In Table 1 The data and indicators were obtained from the analysis "Satellite accounts related to cooperatives in the Republic of Serbia, 2009" from 2011, conveyed in collaboration with The European Commission Statistical Agency –General Directorate for entrepreneurship and economy and General Program for competitiveness and innovations 2007-2013, United Nations Development Program titled "Social enterprises in Serbia: cooperatives-Institutional framework and best practices", October 2008 and Cooperatives associations in Serbia.

The key issue is the disappearance related to financial cooperatives from economic, financial and legal life in the Republic of Serbia (Nikolić, 2009,172). Savings-credit union and savings credit services within cooperatives were one of the drivers for cooperatives' development and for the areas where cooperatives were present in the previous period. However, these depositary institutions were fertile ground for various kinds of misuse. At this point from regulatory perspective, even though Savings and Credit Cooperatives are envisaged and regulated by provisions in Law and legislations on cooperatives, measures taken by the National Bank of Serbia in the execution of public authorities of administrative supervision over the operations of financial institutions, revoked and liquidated Savings and Credit Cooperatives. Law on Banks ("RS Official Gazette", Nos. 107/05, 91/10, 14/15) states in Article 5, paragraph 1 that no one is permitted to accept deposits except the bank and in paragraph 2 of the same article that no one but the bank cannot give credits and distribute payment cards unless for that is not authorized by Law, this repeals Law on Banks and Other Financial Institutions ("Official Gazette", no. 32/93 , 61/95, 44/99 and 36/02 and "Official Gazette", Nos. 72/03 and 61/05) and makes Savings and Credit Cooperatives and Financial Cooperatives in Republic of Serbia a "dead letter".

THE ADVANTAGES OF COOPERATIVES

The cooperatives have a vast potential for the sustainable economic and social development within a community in accordance with "bottom up approach". This also applies to the situation in the Republic of Serbia today. Bearing in mind a wide range of international and national practices we may conclude that a legal form of cooperatives has different economic, i.e. economic and social advantages in comparison with other forms of organizations:

- The potential for creating risk free and sustainable business arrangements;
- Democratic shareholding model of management;
- The offer of better quality services, i.e. services necessary for the needs of community which the private corporative sector does not provide due to low profit, especially within the domain of health insurance, social insurance, recreation, rural tourism, and providing the essential goods and services (e.g. convenience shops in remote areas);
- The potential for the revival of agriculture, rural and regional development especially by establishing a direct connection between the agricultural manufacturer and the market which may bring an added value to manufacturers, increase revenues and insures a risk free environment for agricultural workers, which all leads to higher investments in agriculture and decrease of migration from rural to urban areas, from undeveloped or underdeveloped into developed regions which consequently influences the outline of the demographic structure;
- The potential for eliminating gray economy, especially within traditionally informal agriculture sector, leading to higher level of tax collections, more varied sources for tax collection and the lower rates of tax evasion.
- Positive effects related to residential building and resolving unresolved residential issues of the vast number of population;
- The potential for the accumulation of the social capital and solidarity, social reintegration of excluded groups, promotion of social justice and equality in local community and society (social cooperatives and consumer cooperatives organized in the form of so called SOS markets);
- Healthy competition promotion within economic branches which (under our conditions and circumstances) traditionally favor monopolistic, duopolistic and oligopolistic positions , i.e. the dominant positions of large economic legal entities (residential construction, consumption, agriculture);
- Great importance fir the local economic development (art.20, item 30) of the Law on local self-governance, "Official Gazette of the RS", no.129/07, stipulates that municipality through its legal bodies and in accordance with the Constitutional Law should encourage and facilitate the development of cooperatives));
- Positive ecological effects.

Bearing in mind the features and unique characteristics of cooperatives we may conclude that cooperatives, and especially social cooperatives are an imminent form of organization and institutionalization of social entrepreneurship (social economy).

Within the advantages of cooperatives it is particularly important to emphasize the significant resilience and the so called elasticity of cooperatives in the face of global economic and financial crisis. This fact is particularly emphasized by the data obtained from International Labor Organization which supports the cooperative sector with its numerous activities. The ownership-management model of cooperatives including financial cooperatives, which is not based on capital involvement in legal entity, in difference with so called capital centered legal entities primary oriented towards profit maximization, and bonuses for managers in short term, as well as a long term orientation of cooperatives towards the achievement of cooperative goals, are the main factors responsible for the resilience of cooperatives to the devastating consequences of the economic financial crisis.

The rural development is possible if there are entities which may foster rural development: cooperatives as well as the small and medium enterprises which include various forms of business activities. In the past, cooperatives demonstrated that they can successfully performs their social functions in rural areas such as: the construction of local highways, enabling energy supply in rural areas, the improvement of health security for the local population, the organization of the cultural life, the construction of playgrounds for children, entertaining the youth population in rural areas etc. and primarily by employment of highly skilled professionals(especially engineers) provide a relevant intellectual critical mass for the faster technology transfer within the agricultural production and the influence on the development of culture, education, rural tourism and other forms of life in rural areas. The employment of highly skilled professionals and other members of the work force in rural areas would greatly contribute to the resolution of one of the crucial issues-unemployment, and cooperatives would once again become the bearers of development of our agricultural and rural areas. The cooperatives have the capacity and potential in terms of stopping the decrease in agricultural production. The so called gray economy is very common form of commerce in agricultural products, which damages both the agricultural manufacturers and the state. As a consequence of this informal way of trade the state does not collect Value Added revenues (VAT), and agricultural and other manufacturers are subject to exploitation within the supply sector as well as within the sales sector related to agricultural and other products. The return of agricultural products into legal trade channels can be ensured only by organizing the cooperatives as the dominant form of organization and commercial flow of agricultural products. The cooperatives also appeared to be the efficient instrument in the fight against poverty as well in social inclusion (social inclusion, social reintegration).

Even though, they are directed towards performing specific economic activities, cooperatives are distinguished from a legal entity, primarily in terms of the status of their members, profit distribution, the right to vote, and solidarity

which is favored instead of the proportionality of investment. In terms of company law, the cooperative sector emphasizes the advantages of democratic association of cooperative entities with equal shares (shareholder equity) and equal right to vote as oppose to publicly traded companies or larger private limited companies as traditional companies with large number of small shareholders, with its proxy right.

THE RECOMMENDATIONS FOR THE RESOLUTION OF THE CURRENT PROBLEMS OF COOPERATIVES IN SERBIA

The relations within cooperatives in the Republic of Serbia still today are regulated by two Laws:

- The former Law on cooperatives ("Official Gazette", no. 41/96 and 12/98 and "Official Gazette RS", no.101/05 –and other Laws and 34/06) passed in 1996 as the Federal Law, and currently it is implemented as the Republic Law changed and amended in the meantime more than once;
- Republic Law on cooperatives ("Official Gazette SRS", no. 57/89 and "Official Gazette RS", no. 67/93, 46/95 and 101/05 and other Laws), passed in 1989 and changed and amended more than once.

These facts led to legal dualism and collision and overlapping of certain legal norms and it causes unequal implementation, different interpretation, ambiguity and confusion in practice and inconsistency with contemporary social economic circumstances.

Cooperatives and cooperation in RS face different types of problems and seek catering of different needs, and the current laws which govern cooperatives have demonstrated arrange of malfunctions in practice. The regulatory and real defects, the issues and the needs of cooperative sector can be summarized in the following:

- Inconsistency of the legislative norms;
- Obsolete and dysfunctional legal practices adopted within the circumstances which significantly differ from the current economic, social and political circumstances;
- Obsolete and dysfunctional legal practices adopted within the circumstances significantly different from judiciary and constitutional system of the federally organized state with two levels of legislative authorities;
- Unsettled legal property rights-legal status related to cooperative property and cooperative associations registered as social property which, above all, disables the cooperatives to use it as the collateral for the loans, and leads to the problems within privatization processes as well;
- Fragile mechanisms for capital obtaining on the part of cooperatives, without formal start up equity, accumulation of capital as well and its profitable investing. The main source of capital inflow into the cooperative, following the current legal propositions are the shares or memberships of its members and their amounts are commonly low;

- The lack of incentive power of the legal regulations pertaining to the managerial transformation of cooperatives as well as the strengthening of its market functions, which is inevitable in modern conditions as well as the need for the legal recognition and establishment of the higher level of cooperative sector autonomy within the category of legal entities, which would create a legal basis for stipulation of the appropriate incentives and exemptions within specific by-laws;
- Inconsistency of the regulatory policy in certain areas on both the formal federal and the current republic level, as well as the lack of contemporary cooperative policy, especially in terms of many regulation which in certain areas do not recognize the categories within the area of cooperatives and cooperation or are in opposition to the propositions contained within the laws which govern cooperatives (e.g. : inconsistency of the legal framework related to savings credit cooperatives and savings credit services from the Law which governs cooperatives and article 5 of the Law on banks ("Official Gazette" nos. 107/05, 91/10), which stipulates no other entity except from the bank can collect deposits(paragraph 1) and that no one except the bank can issue loans, if not otherwise authorized by the Law);
- Inefficient legal frameworks related to current Laws primarily in terms of performing public authorizations given on behalf of cooperative associations. By this law the cooperative associations were granted the right to adopt the general rules which govern the application of cooperative principles as well as other issues of importance for the activities of different types of cooperatives representing an integrated part of those cooperative associations as well as the rules which stipulate the terms and conditions to be observed by cooperative associations and auditors which perform the cooperative auditing, the contents of audit reports as well as other issues of importance for the cooperative audit of cooperatives integrated within the associations. These legal acts represent by laws for the implementation of the Law which govern the cooperatives. Since these cooperative associations are authorized for the adoption of above mentioned by laws as well as their implementation, without the efficient formal supervision of their activities by the relevant state authority, created an array of discrepancies in the everyday activities of the cooperatives and cooperative associations, especially in terms of implementation of cooperative auditing. Thus, the necessity for rearrangement emerged as well, i.e. the legal arrangement of the cooperative auditing, based on the practical experiences.
- The legal non recognition and mismanagement of certain special forms of cooperatives (e.g. social cooperatives), which disables their establishment and development;
- The need to bring into compliance the national regulations with the propositions and legal act of the EU, and within that the legislative framework within the domain of cooperatives and cooperation. The necessity for these changes stands from the need to begin with reforms of national cooperatives and cooperation in the way which would, based on the model of developed countries, rehabilitated the importance of cooperatives

and cooperation and create the conditions for it to become an important and dynamic factor of development and competitiveness of the national economy, regional and rural development, thus enabling the resolution of the accumulated economic and social issues through cooperatives, which is of great importance in the current phase of the implementation of the transition of the socio economic and the legal system of the Republic of Serbia. The new legal concept should begin with the appropriate solutions given in the Council Regulation No. 1435/2003 on the Statute for European Cooperative Society-SCE and Council Directive No. 2003/72/E3 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees (Nikolić, 2009, 124), as well as the assessment summarized during the General Assembly of the International Cooperative Association held in October of 2001 in Seoul. On this occasion, the document prepared by the International Cooperative Association (ICA) (Nikolić, 2009, 54) as well as the International Labor Organization (ILO) (Nikolić, 2009, 62), under the name of "Guidelines for cooperative legislature" (Madžić, 2010, 258), it was assessed that the cooperative law today is primarily conservative and that it objectively represents an obstacle to the dynamic development of cooperation. Because of this, member states of the International Cooperative Association for giving instruction, i.e. recommendation that is necessary to reform implementation regarding cooperative legislature, in order to create the environment for strengthening the market and entrepreneurial function in the everyday activities of cooperatives, given that the lack of the above mentioned would prevent the cooperatives to confirm the basic cooperative values, based on self-help, democracy and solidarity of cooperative members in resolving their economic and social issues.;

- The need for creating the appropriate legal environment for the implementation of the cooperative sector reforms by means of new contemporary propositions as well as the important assumption for support to the development of cooperation in the Republic of Serbia in line with the modern world trends, which cannot be achieved by implementing the partial amendments to the existing law.

Considering all the things that have been stated, the majority of agricultural and other manufacturers ("creators of the new value") in the Republic of Serbia today is not organized i.e. insufficiently organized and protected. Therefore, there is the need to organize, spread and promote the cooperative forms of activities which should organize the production for cooperative members, to promote their interest and guarantee certain level of security for the agricultural and other manufacturers on the market. Apart from that, the problem stems from the fact the majority of professional and general public still perceive the cooperatives as the obsolete institutional forms of doing business.

All of the above mentioned issues should be perceived within the mutual cause-effect relationship-indirect and direct, as well as historic.

THE LEGAL BASIS FOR REGULATION OF COOPERATIVES – GOALS

Germany legal tradition, which includes Serbian law, does not recognize cooperatives in the form of commercial companies or civil societies, as is the case in the countries of Roman legal tradition. In that countries cooperatives can be organize in the form of a capital company - Joint Stock Company or limited liability companies or entities - limited partnership, as well as other transitional forms of companies related to a specific national law. For example, Belgian law recognizes two forms of cooperative societies: a cooperative company with limited liability (nem. Cooperatiu Vennootschap met Beperkte aansprakelijkheid - CVBA, French, Société Coopérative à responsabilité limitée - SCRL, Eng. Cooperative Company with Limited Liability - Cell,) and cooperative company with unlimited liability (nem. Cooperatiu Vennootschap met Onbeperkte aansprakelijkheid - CVOA, double. Société Coopérative à responsabilité Illimitée - SCRI, Eng. Cooperative Company with Unlimited Liability - Cell). Also, countries of Anglo-Saxon legal tradition recognize forms of cooperative societies. The law about cooperatives of 1996. is giving a opinion that there is no possibility of establishing cooperatives in some form envisaged for companies. Furthermore, it is often understood as forms of cooperative associations or companies or transitional forms of these organizations. However, the most correct understanding is that the cooperative are authentic and genuine economic entity (sui generis entity). Cooperator is a individual who is a member of the cooperative and fully or partially operating through cooperatives or he sells its products/ or services by cooperative, procures products or services necessary to carry out its activities or otherwise directly involved in carrying out activities for which the cooperative was established, as in all things in accordance with the internationally recognized definition of cooperatives.

The cooperative acquires legal personality by registration in the register kept by the authority competent for registration of business entities (the Register), i.e. The Business Register maintained by the Agency for Business Registers, in accordance with the law governing the registration of business entities - Law on Registration of Business Entities ("RS Official Gazette", Nos. 55/04, 61/05 and 111/09 – and another laws). The cooperative cannot be organized as a commercial company or other form of organization, or can be attached or connected with the company or other legal entity that is not cooperative, or change the form of the company or other legal entity. In this way, resolves the conflict that exists between the provisions of the existing laws governing cooperatives, since the federal Cooperative Act of 1996 stipulates that cooperatives cannot be organized as a company or other form of organization, or can be attached or connected with the company or other legal entity that is not cooperative, while, on the other hand, the Cooperative Act of 1989 stipulates that cooperatives stops, among other things, if you connect or merge with another company or cooperative, or if divided into several cooperatives. The adoption of this rule maintains originality of the cooperative as a legal and business forms, prevent abuse and perversion of cooperative principles and values, creating a "false" Cooperative (the cooperative-shells), primarily for the use of benefits and incentives aimed to the "real" cooperatives. The cooperative may be a founder or member of another legal entity, in

accordance with the law and the cooperative rules, who's creating the legal conditions for the implementation of public-private partnerships, cooperative and public sectors, which are most often institutionalized in the form of a joint company (Eng. Special purpose vehicle, special purpose entity).

The new legal regulation of cooperatives would achieve the following objectives:

- contemporary legal solutions adapted to the modern market, economic, financial, legal, constitutional and socio-political order and system;
- the establishment of mechanisms to attract capital to the cooperative, as well as the accumulation of capital and its favorable placement;
- stimulating effect of legislation to control the transformation of cooperatives and to strengthen its market functions;
- overcome of property-legal relations - legal status of property cooperatives or, which is recorded as social property, which will be able, to cooperatives to use that associations of cooperatives the same as collateral to repay a loan taken from banks;
- integration of legal matter, internal and external compliance of regulations;
- embedding of modern cooperative policies and appropriate of legislative and legal environment for the implementation of reforms in the cooperative sector, also the legal recognition and regulation of higher degree of autonomy cooperative sector within the category of businesses. That conditions, can create the legal basis for the provision of appropriate incentives and exemptions in special laws;
- adoption of a new legal concept of cooperative audit, in order to prevent the negative and rectification of irregularities in the operations of cooperatives, on the basis of practical experience;
- reorganization of cooperative unions, with more pronounced business function, which is reflected primarily in providing better opportunities for cooperatives- members of cooperative unions in the placement of their products on the market;
- legal recognition and regulation of certain special forms of cooperatives (eg. social cooperatives), which creates the conditions and legal framework for their creation and development;
- harmonization of domestic legislation with the legal acts of the European Union in the field of cooperatives and cooperatives - Regulation of the Council of the European Union (Council Regulation No. 1435/2003) on the Statute of the European Cooperative (SCE) of 22 July 2003 and the Council Directive (Council Directive No. 2003 / 72EZ) amending the Statute of the European Cooperative with regard to participation of employees from 22 July 2003, as well as an assessment delivered to the General Assembly of the International Cooperative Alliance, which was held in October 2001 in Seoul - a document prepared by the International Co-operative Alliance and the International Labor Organization (ILO), entitled "Guidelines for cooperative legislation" (Nikolić, 2009, 37, 38, 48, 124; Madžić, 2010, 258);
- harmonization with some modern world trends in the field of cooperatives and cooperatives as one of the most important economic sector, an engine of growth and development.

STRATEGIC AND INSTITUTIONAL BASIS OF COOPERATIVES PLANNING

Strategic basis for planning and development of cooperatives in the Republic of Serbia was made in the National Strategy of Economic Development of the Republic of Serbia from 2006 to 2012, in the Action Plan and in the Strategy of development of competitive and innovative small and medium-sized enterprises for the period 2008 to 2013. ("Official Gazette", number 103/08). That strategy in the part with name "Legal, institutional and business environment for SMEs in Serbia" envisioned reform legislation - amendments to the existing and adoption of new laws and regulations about industry and some related fields, and their implementation by the principle of "small and medium-sized undertakings enterprises in the first place" (Eng. "Think Small First"). Operational plan for implementing this strategy, which forms an integral part, foresaw the adoption of new legislation governing the cooperative. Also, the Regional Development Strategy of the Republic of Serbia for the period from 2007 to 2012, spoke about adoption of a new law on cooperatives.

The new Action Plan for the implementation of the strategy for supporting the development of small and medium enterprises, entrepreneurship and competitiveness for 2015 with projections for 2016, the Pillar - 1 General goal-improving the environment, Measure (M1) Improvement of the legal framework for the establishment, operation and Fire business entities, provided the activity of the Ministry of Economy for 2015 legislation on cooperatives which will regulate the legal status of cooperatives and create conditions for intensive development of cooperatives with modern standards in the Republic of Serbia.

The institutional basis for proposing of statutory regulation of cooperatives in the Republic of Serbia is contained in Article 4 of the Law on Ministries ("Official Gazette of RS", No. 44/14), according to the Ministry of Economy is responsible for jobs by state administration, including: Economy and Economic Development; the status of companies and other forms of business; connecting companies and other forms of organization for performing activities.

CONCLUSION

In developed countries, cooperatives predominantly achieved a market function, while in countries which will later be develop, and in some undeveloped countries, cooperatives primarily have the role of self-help and solidarity (ie. the social function for long). This second characteristic represent an important positive effects on the economic and socio-economic system of the Republic of Serbia. In the new law, cooperative should be determined by a legal entity which is a special form of organization of physical or legal entities operating on cooperative principles to realize their economic, social and cultural interests, and democratically managed and controlled cooperative, which is in line with the internationally recognized definition of cooperatives.

The new legislation should allow new businesses and the development of competition and competitiveness of the domestic economy, i.e. establishment, survival (survival on the market), the development and competitiveness of cooperatives and of the cooperative sector. This is particularly important in relation to small and medium-sized cooperatives. Also, a necessary legal solutions should contribute to ensuring that the cooperatives, which are currently at a disadvantage on the market in relation to other market operators (practically, the marginalization of the market), which is a large part of the professional and the general public regarded as outdated and anachronistic institutional form of business and that, as a whole, operate at a loss, lead to a more equal footing with other market operators. The nominal and percentage indicators and data presented in the preceding section of this analysis are illustrative in favor of it. To make the cooperative sector managed to be revitalized and survive and developing on the market, they need to have financial resources, working capital, product buyers (consumers) and public incentives, and this law provides a legal basis for it.

The new legislation should provide incentives for the development of cooperatives, where particularly significant can extract strengthen agricultural, housing and consumer cooperative as business entities which operate in industries in which (in our terms and conditions) traditionally represented a monopoly, and duopoly and oligopoly positions, i.e. the dominant position of large companies.

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CONDITION OF COOPERATIVES AND COOPERATIVE SECTOR IN SERBIA

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ABSTRACT

The author analyses and gives an overview condition on cooperatives and cooperative sector in the Republic of Serbia, as well as a review of the legal framework that regulates the area of cooperatives. The aim of the analysis is the need for defining condition of cooperatives and cooperative sector in Serbia. On the basis of the presented data, the author in the conclusion presents the problems that cooperatives in the Republic of Serbia have been confronting with for more than two decades, as well as the proposals for the solution of the accumulated problems.

Key words: *Cooperatives, Cooperative Sector, Statistical Data*

JEL Classification: *K20*

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INTRODUCTION

In the aim of understanding the situation in the cooperative sector and for the purpose of defining the new legal basis, it is necessary to perceive indicators relating to cooperatives and cooperative. Considering the existence of different records and registers, kept by different organs and organizations, as well as different classification criteria, the statistical indicators on the cooperative sector in the reference period, consequently, are not entirely compliant (article 6, 33-35 The Law on Accounting, "RS Official Gazette", no. 62/2013). After 2009 this situation has been overcome to a large extent thanks to the regulatory changes which have established that business entities submit their financial reports to only one public institution – The Agency for Business Registers, instead of three public institutions – The Agency for Business Registers, The National Bank of Serbia and The Ministry of Finance- Tax Administration.

The legal regulation that regulates the sector is very outdated. The legal framework that regulates cooperative movement consists of the Law on Cooperatives („Official Gazette SRJ“, no. 41/96 and 12/98 and „ Official Gazette RS“, no. 101/05 – other law and 34/06), Law on Cooperatives („Official Gazette SRS“, br. 57/89 and „ Official Gazette RS “, no. 67/93, 46/95 and 101/05 – other law) and Law on Banks („Official Gazette RS“, no. 107/05, 91/10 the 14/15). Besides the aforementioned Laws, other acts of the Government regulate the reforms and ways of supporting in the sector, but particularly important are The Strategy of Agriculture and Rural Development of The Republic of Serbia 2014-2024 (“Official Gazette RS “, no. 85/2014) and The National Rural Development Program 2011-2013 („Official Gazette RS“, br. 15/2011) . In addition to the Law on Cooperatives, other legal acts also regulate the legal system in the cooperative sector. The most significant among them are the following: General rules on the Cooperative Union of Yugoslavia, (“Official Gazette SFY”, no. 25/98 and “Official Gazette SMN”, no. 1/2003 – Constitutional Charter) and the Rules on the Cooperative Audit of the Cooperative Union of Yugoslavia (“Official Gazette SRY”, no. 26/98 and 28/98 –correction-. and “Official Gazette SMN”, no.1/2003 – Constitutional Charter).

Very important data about the cooperative sector are provided by the analysis “Satellite accounts of the cooperative sector in the Republic of Serbia, 2009” from 2011, composed in cooperation of the Statistical Office of the Republic of Serbia,, the European Commission –Directorate general for enterprise and industry and Framework Programme for Competitiveness and Innovation 2007-2013.

TRENDS IN THE DEVELOPMENT OF A COOPERATIVE IN SERBIA

According to the analysis data, cooperative sector in the period 2007-2009 recorded negative trends (Table 1. Total number of cooperatives and cooperative unions is reduced from 2337 in 2007 to 2140 in 2009). The fall in the number of cooperatives is accompanied with the fall in the number of cooperative members and the number of employees. The number of cooperative members reduced from 125551 in 2007.to 122192 in 2009. The largest business turnover in the observed period is recorded in 2008, but this year also achieved the largest net loss - 1852,7 mil. RSD. Net losses were also recorded in 2007 and 2009 (Milojic et al., 2011, 21.)

Table 1: Cooperative sector, 2007-2009.

LDCDL	Number of cooperatives and cooperative unions	Number of cooperative members	Number of employees	Business turnover, mil. RSD	Net profit, mil. RSD
2007	2.337	125551	10863	48793,9	-620,1
2008	2.314	125493	9853	57069,4	-1852,7
2009	2.140	122192	8563	49835,7	-900,9

Source: Milojic et al., 2011, 21

Table 2 shows that out of the total number of legal entities in non-financial sector in 2009 only 2.4% belongs to the cooperative sector. Share in business turnover of non-financial sector was only 0.9%, whereas the share in the number of employees was 0.8%. The aggregate values of the cooperative sector can be considered as economically insufficiently significant and indicate to a long period of institutional neglect, as well as to the negative effects of transitional restructuring of the national economy on the cooperative sector business.

Table 2: Share in non-financial sector, 2009.

Cooperative sector	%
Number of business entities	2,4
Business turnover	0,9
Number of employees	0,8

Source: Milojic et al., 2011, 21.

Regarding the number and size of business entities, the cooperative sector in Serbia in 2009 consisted of 2.124 cooperatives and 16 cooperative unions, making a total of 2140 business entities.

Table 3: Number of cooperatives and cooperative unions, 2009.

Type of business entity	Number of business entities
Cooperatives	2.124
Cooperative unions	16
Total	2.140

Source: Milošić et al., 2011, 25

Observed by types, the largest participation in the total number of cooperatives had agricultural cooperatives, 67.1%. Youth and student cooperatives take part with 17.8%, housing with 6.9%, craft with 4.1%, while the participation of all other cooperatives is 4.2%

Table 4: Number of cooperatives by types, 2009.

Type of cooperatives	Number of cooperatives	Structure, %
Agricultural	1.425	67,1
Youth and students	378	17,8
Housing	146	6,9
Craft	87	4,1
Consumer	8	0,4
Others	80	3,8
Total	2.124	100

Source: Milošić et al., 2011, 25

The number of cooperatives by number is not equable. In the sector A – Agriculture, hunting and forestry – operated 60.6% of cooperatives, and in the sector K – Real estates activities, renting – 20.2%, which together makes more than 80%. In the other activities operated less than 20% of cooperatives.

Table 5: Number of cooperatives by activities, 2009.

Activity	Number of cooperatives	Structure, %
A agriculture, hunting and forestry	1.287	60,6
B Fisheries	4	0,2
C Mining and quarrying	3	0,1
D Processing industry	94	4,4
E Production of electricity, gas and water	2	0,1
F Building and construction	132	6,2
G Retail and wholesale trade, repairing	112	5,3
H Hotels and restaurants	2	0,1
I Traffic, storage and connections	13	0,6
J Financial intermediation	-	-
K Real estate activities, renting	430	20,2
L Public administration and social insurance	-	-
M Education	4	0,2
N Health and social work	2	0,1
O Other community, social and personal services	39	1,8
Total	2.124	100

Source: Milošić et al., 2011, 26

Table 6: Number of cooperatives by types and size (according to national legislation), 2009.

Type of cooperatives	Number of cooperatives			Structure, %		
	small	medium	Large	small	medium	large
Agricultural	1.387	35	3	66,5	97,2	100
Youth and students	378	-	-	18,1	-	-
Housing	146	-	-	7	-	-
Craft	86	1	-	4,1	2,8	-
Consumer	8	-	-	0,4	-	-
Others	80	-	-	3,8	-	-
Total	2.085	36	3	100	100	100

Source: Milošić et al, 2011, 27

DISCUSSION

The total number of cooperative members in 2009 was 122192. Although the majority of cooperatives involve agricultural ones, the largest participation in the total number of cooperative members had youth and students cooperatives – 62.4%, whereas the participation of agricultural cooperatives was 25.5%. Share of other cooperatives was 12.2%. Observed by gender, 64.1% are men and 35.9% women. Participation of women is less than participation of men in of cooperative types. <the biggest participation of women was in youth and students cooperatives – 41.2% and in consumer – 38.2% (Milojic, et al., 2011., 30).

It should be pointed out that above mentioned figures do not show the real economic capacity and extremely high possibilities of cooperative sector in Serbia, especially in agriculture. Based on foregoing, it can be concluded that the results of operations in cooperative sector in Serbia are in reverse proportion to their real capacity and possibilities.

According to data of the Cooperative Union of Serbia, from March 2014, 1.662 agricultural cooperatives are functional, whereas 938 are removed from the register. During 2010, 2011 and 2012, by applying the provisions on automatic bankruptcy, later assessed as unconstitutional, 783 cooperatives were removed and their property was transferred to the state ownership. Some of agricultural cooperatives have also been privatized, primarily those which worked in the frame of agricultural corporations. In 2013, 122 agricultural cooperatives were formed. Out of the total number of agricultural cooperatives, a bit more than 40% have been registered in Vojvodina, and the rest in the central part of Serbia

CONCLUSION

All given data unambiguously indicate the very difficult situation in the cooperative sector and picturesquely substantiate the ascertainment of problems that cooperatives and cooperative movement in Serbia are facing with, as well as their contemporary needs, as closer described above. The mentioned statistics data and facts speak about negative tendencies in the cooperative sector, which reflects in decrease of the number of cooperatives, individuals employed in them and cooperative resources, as well as in losses increase of the cooperative sector and its growing marginalization and passivity in the economic system of the Republic of Serbia.

The analytical research sector in Serbia observes the situation and development potentials through two dimensions. In the first dimension the particular attention is paid to the reasons for uniting and development potentials of the sector. The second dimension provides the analytic review of the state in cooperatives' property, directing a special focus to land as the basic property resource.

According to the attitudes of many institutions and individuals, the cooperative sector of the Republic of Serbia requires immediate intervention and reforms in several dimensions. The period from 2000 to 2013 was characterized by an accelerated privatization process of social capita and the implementation of a series of systematic reforms, which had mostly bypassed cooperatives (Novaković, 2014, p. 83).

The problems that cooperatives in Serbia are facing with can be systematized as follows:

- Inadequate and outdated legislation – from 1989 and 1996 even does not conform with the way this area is regulated in the EU member countries, which also prevents the use of pre-accession EU funds for these purposes. Additionally there is a distinguished problem that cooperative unions have the monopoly over the performance of the cooperative audit.
- The absence of fiscal policy measures and other forms of support to cooperatives as a specific form of business. These forms of support are common in developed European countries. States have recognized a number of socio-economic aspects of the uniting and as such have introduced a number of incentives in business operations of cooperatives.
- Small working capital and reduced possibility of credit funds use, especially when it comes to "young cooperatives";
- Unfamiliarity with the basic cooperative principles and bad historical connotation of the very concept of cooperatives and cooperative sector contribute to agriculturists' feeling of distrust and animosity towards organizing and uniting into cooperatives;
- Poor management capacities in cooperatives. Cooperatives management is often overtaken by cooperative members themselves, who are not educated in a domain of modern financial and economic flows and cannot meet all the challenges imposed to cooperatives by the market;
- The cooperative sector has remained out of the new institutional and economic reforms focus, and the transitional political solutions have not covered the specifics of the cooperative sector in a sufficient measure;
- Cooperatives were excluded from the privatization process, which was supposed to give them an additional incentive for strengthening and development;
- Unsolved problems in property-legal issues, unequal access to capital market and devastated effects of the grey economy all influenced the slowdown of the cooperative movement reforming;
- The identity of cooperative property and trust in the cooperative system have been lost;
- There are not the unique mechanisms for monitoring the cooperative sector conditions and no ministry owns the precise and reliable data about the situation in this sector;
- Support programs to the cooperative sector offered by certain ministries in the previous years were executed on ad hoc basis, being mutually inconsistent and systematically disordered;

- Exclusion from the market of final food products - agricultural cooperatives do not have their own processing capacities;
- Technical and technological obsolescence of storage capacity;
- Lack of investment in maintenance and renovation of the equipment;
- Difficult access to capital market and with regard to this they are in unfavorable position comparing with small and medium legal entities and other participants;
- Inter-cooperative collaboration is undeveloped and reduced mostly to cooperatives in a narrow local surrounding;
- Unfavorable image of human resources in quantitative and qualitative sense;
- The number of existing producers associations is exceptionally big, but they are poorly developed and their role and activities are minor, with the low level of professionalism and lack of managerial personnel with low negotiating power.

Besides that, from the point of social inclusion and poverty reduction (as one of the elementary issue in the Republic of Serbia) and new cooperative types creation, the fact is that social cooperatives, as one of the pillars of social economy in the Republic of Serbia are not legally recognized and arranged, and thus this significant business-institutional form of social entrepreneurship is actually marginalized. This greatly hinders the creation of new and development of existing cooperatives. All presented reasons and the data unambiguously speak in favor of the reform of the legal regulation of the cooperative sector. What is necessary is the reform legal framework for cooperatives and cooperative sector, their transformation and promotions, recognition as a legal form for new types of entrepreneurship, not as something that is out of date and survived, which means the overall cooperatives revitalization. Legal provisions should provide incentives for the cooperative sector, control of those incentives use, prevention of abuse and their sanctioning.

The necessity of reforming the cooperative sector in the Republic of Serbia especially gained in importance in the conditions of food prices increase and demand for it, the expected liberalization of the market and the growing competitiveness need, as well as from the aspect of society and social changes in which cooperatives can be an important actor. The concept of cooperatives and uniting is regarded as a model to improve the system of knowledge transfer and human resources potential development.

The new legal framework should have positive effects on the users of products and services of cooperatives (individuals and legal entities), because the applying of the stipulated solutions should lead to the professionalization of cooperatives and higher quality of their products and services they provide.

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THE LEGAL PROTECTION OF TECHNICAL INVENTIONS

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ABSTRACT

In contemporary society, knowledge is the most important resource of economic development so as innovative capacity i.e. capability for creation of inventions and obtaining commercial gains from innovation represents the base for employment, entrepreneurship and education in the conditions of knowledge economy. The significant segment of environment where the job creation, entrepreneurship and efficient vocational education are supported is legal protection of technical inventions. This paper is dealt with contents and boundaries of exclusive legal powers granted to patent owners. First of all the legal conception of technical invention is examined. Afterwards it is pointed that patent is characterised by exclusivity and all elements of this exclusivity as well as limitations of it are presented. The finding is that the scope of legal monopoly conferred by patent forms the very solid basis for doing business successfully causing increasing the employment and entrepreneurship development.

Key words: Law, Patents, Technical Inventions

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INTRODUCTION

Successful business that is not based on intellectual property (rights) is hardly conceivable today. One of the most important form of intellectual property are technical inventions. Technical inventions are legally protected by patents. Patent is an intellectual property right originating from the middle ages privileges that sovereigns awarded to inventors of technical inventions as well as to craftsmen for "importation" of new handicrafts (Varga, 2014, p. 33). It means that technical inventions are subject-matter of patent. In order to obtain patent, a technical invention must exist and a legal procedure for registration of invention must be initiated. In the Republic of Serbia application must be submitted to the Office for Intellectual Property. If procedural and substantial (novelty, inventive step and industrial application) conditions are satisfied, patent shall be granted by a written decision. In addition to decision on patent granting, a certificate on patent shall be issued. The patent certificate serves for probation who is patent owner for which technical invention.

If patent is granted only if legal procedure is accomplished, inventor must apply for legal protection. In the absence of such application, inventors may come to situation where they must tolerate if others not only use the invention but protect it on their name. In the latter case, the first inventor shall lose his rights because patent is a monopolistic, exclusive right and patent for certain technical invention can be granted upon the one patent application only.

When patent is granted, owner of patent is awarded with exclusive legal powers which take effect *erga omnes*, i.e. toward everyone and their realization is not linked to existence of any legal relationship between patent owner and third persons (Blum-Pedrazzini, 1975, p. 380). The right is of an absolute nature. However, absolute effect of patent is limited. By patent granting inventor or some other patent owner (for example an enterprise or research institute) is awarded by monopoly over the protected invention use to recover expenses, time and efforts invested in research whereas limitations of the patent serve a balance to be made of interests of inventors - i.e. private interests at one side and society - i.e. public interests at the other side. Limitations are not characterised for patents only but all rights are subject of restrictions. This policy respects interests of society and other individuals.

The subject matter of research in this paper is exactly these two questions: contents and limitations of patent as an intellectual property right. But first of all it is necessary explain what is the invention as the patent subject-matter.

THE INVENTION AS A SUBJECT MATTER OF LEGAL PROTECTION AND PRESUPPOSITION FOR PATENT GRANTING

Invention defining is rather disputable in patent law doctrine. Colloquially the conception of invention embraces whatsoever impartial new knowledge on external world. But patent law conception on invention is a specific legal construction, whose meaning is confined to intellectual property and contents instruction for exertion in order that some technical problem would be resolved (Markovic, 2000, p. 98). This is a doctrinaire patent law definition of technical invention. In 2011 Patent Act (*Official Gazette of the Republic of Serbia No 99/2011*), art. 7, however, invention is specified as an intellectual property, in all fields of technology, which is new, involves an inventive step and is capable of industrial application. It is obviously that in 2011 Patent Act invention is determined by using substantial patent law conditions for patentability. In any case, patent law conception of invention is linked to technique. Technique is defined as "reining the forces of nature and controlled use of natural phenomenon" (Fiser, 2005, p. 1085). But, since according to modern patent law perceptions, technique comprises the world of living nature too, it can be said that the technique comprises entire world of material phenomena. Unlike ideas i.e. notions in human consciousness, under material phenomena are included natural phenomena that are characterized by space, time, substance and energy and that are controlled by the forces of nature following the cause-effect principles. All of that means that invention exists only if application of instruction on indispensable and sufficient conditions through the power of natural causality, directly, creates such consequence in material world that it is deemed as a new solution of a technical problem (Markovic, Popovic, 2014, p. 95). In some countries (especially in the USA and Japan) patents for software and business methods are recognised, too. It indicates broadening of the already wide concept of material world within patent law. Besides of electronics, biotechnology is the field of the most intensive research and development today. In general, technical inventions are always in the function of satisfaction of some human need.

As an intellectual creation, an invention is a product of human intellectual creativity. In that sense, an invention is an immaterial unit that creator brings into the human culture (Sladovic, 1925, p. 18). Invention, as a form of intellectual creativity, is the result of a process consisting of three basic phases. The first one is the phase of thinking. The next is the formation of an inventive idea phase and the last is the phase of realization of an inventive idea (Janjic, 1982, p. 10/11). The creation of an invention begins with thinking about the possible use of scientific regularities to meet certain human needs. This means that two factors are primary in the basis of creating an invention: a) existence of (completely or partially) unsatisfied human needs; and b) existence of considerable funds of scientific knowledge in the given area of life. Existence of unsatisfied human needs is considered to be primary, driving impulse of technical creativity. The existence of a considerable fund of scientific knowledge (especially in the area of mathematics, physique, chemistry, biology, etc.) obtained in the so-called fundamental scientific research are logical precondition and basis for applied and developmental researches that are undertaken to resolve technical

problems in order to meet specific human needs. Therefore, the phase of thinking includes getting to know the problem, i.e. analyzing the problem, gathering, arranging, and systematization of scientific knowledge in the given area. It is followed by a calm (so-called incubation) period in which creator is not engaged directly (i.e. consciously) in resolving the problem (Graic-Stepanovic, 2005, p. 1000). Then the *illumination* or 'cropping out' of inventive idea follows ending the first and beginning the second phase of creativity – the formation of an inventive idea phase in which "thinking about invention is concretized in objectively defined technical content" (Janjic, 1982, p. 10). It is completely irrelevant whether it came to the formation of inventive idea quickly, at once as a product of human genius, or it was rather the result of long-term contemplation and whether it was the question of chance or of longtime, studious work. Yet, the formatted inventive idea is still not an intellectual creation that can be protected by patent. In order to speak about an invention in patent law sense, a formatted inventive idea must be materialized (Fiser, 2005, 1084). Materialization of an idea is her outer manifestation that, in objective reality, is attained if it is fixed on the way and in the measure appropriate enough for her appliance in craft or industrial production. Invention as a product of creative work that has a patent law character is set up with the realization of inventive idea.

THE CONTENTS OF PATENT

In the broadest sense, the contents of patent are composed of several exclusive authorisations of property law nature which function *erga omnes*. As such they authorise patent owners to economically use the protected invention (so called affirmative aspect of right), as well as to confront to all other people to do that without their consent (so called negative aspect of right). In legal theory the existence of both of these aspects is not disputable. It is disputable which one of them (affirmative or negative) represents the core of patent contents. Towards some authors, such as Parac (Parac, 1984, p. 80), the core of patent contents is made of negative group of powers. According to him, the essence of patent as intellectual property right is authorization of patent owner to ban use of invention by third persons without patent holder's consent. Exponents of the theory claim that patent does not supply patentee with any special power to use the invention because patentee could do it until the patent is granted (Vlaskovic, 1999, p. 13). Oppositely, the core of patent contents is in affirmative aspect of legal powers because the patent owner is only one legal entity who is authorized to decide to use patent, if third persons would be forbidden from use of it, if patent would be assigned etc.

Notwithstanding, the question of patent contents is very complex. First has to be mentioned is that applicant obtains powers although patent is not granted yet. These are temporary powers which derive from the published patent application. Second, the subject matter of patent may be invention of product, invention of process or invention of appliance. Third, the contents of patent except of substantial produce territorial effect too. Fourth, a lot of inventions are created in enterprises and a question arises on allocation of gains between physical person as an inventor-employee and undertaking-employer which is usually patent owner.

THE RIGHTS CONFERRED BY A PATENT APPLICATION AFTER PUBLICATION

Although rights conferred by a patent application after publication are conditional, these are recognized in almost all Patent Acts as well as in European Patent Convention (EPC). As for contents of these temporary rights in comparative law are subsisted two normative solutions. In minority of Patent Acts in the world rights conferred by a patent application is confined to claim for compensation against the persons which use invention that is subject of the patent application without consent. At the other side, in majority of Patent Acts in the world (including Serbian Patent Act) contents of right conferred by a published patent application is the same as contents of granted patent, *yet the conditional*. Conditional character of rights conferred by a published patent application means that legal effects of published patent application depend on the outcome of legal procedure initiated by filing of patent application i.e. if patent will be granted or no. If patent is not granted it is considered that rights conferred by a published patent application never existed.

As for a moment of a right conferred by a published patent application commencement, in comparative law are prevalent those normative solutions according to rights conferred by a published patent application come into effect in the moment of publication of patent application (Roubier, 1952, p. 188). The explanation is that invention is confidential as long as patent application is not published, though patent law protects only those inventions that are available to the public. It arises from a general rule existing in law that adjusting of behaviour to norms is possible only if norms are available to the public. No one is able to behave in accordance to a secret norm.

Conditional character of rights conferred by a published patent application provokes provision of judicial protection of that temporary right as well as legal destiny of agreements on assignment of the right if patent would not be granted. As an absolute exclusive right, right conferred by a published patent application is covered by judicial protection. It means that applicant is authorised to file a lawsuit against anyone who use invention from the published application without applicant's consent. Considering that in the moment of lawsuit filing it is not known if patent would be granted or no, court shall interrupt procedure and stagnate till final decision of Intellectual Property Office. If patent is granted, court will continue procedure deciding in the merits. If patent is not granted, lawsuit will be rejected as there is no right that can be judicially protected. Administrative procedure on patent application is complex. After examining on formalities, applicant is beholden to file a request for examination. If such request is not submitted, the court shall issue an order to applicant to file a request in some time limit. If applicant do not act in accordance with the court order, lawsuit will be deemed withdrawn.

Right conferred by a published patent application is eligible for transfer either for assignment and licence. It means that applicant does not has to wait for Intellectual Property Office to settle by patent application. They are allowed to commercially

exploit their inventions exclusively although patent is not granted yet. The question is: what if patent application would be refused? Although in such situation it is deemed that right conferred by a published patent application has not existed ever, contracts on the right transfer are not null and void automatically. They can be held in force if three conditions are fulfilled cumulatively. First, the contract must be accomplished till the decision of the Intellectual Property Office is not brought in. If contract is completed fractionally, in that part the contract shall be held in force. Second, transferee i.e. assignor of the right must act in good faith. It means that in the moment of contract conclusion grantor neither knew nor could have known for existence of grounds for refusal of the patent application. In contrary, the contract shall be deemed null and void and all that is received on the basis of the contract must be returned. Third, decision on the patent application refusal must not be brought in because subject-matter of the patent application is not invention in the sense of patent law or it is invention but from those group of inventions which can not be protected by patent (for example inventions of methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body).

THE PATENT HOLDER POWERS

Patent holder is exclusively authorised to: 1. use protected invention, 2. put products made by protected invention into circulation and 3. dispose by the right. At the same time patent owner has no authority to forbid any other person to: 1. produce, offer, put into circulation or use products made by protected invention or to import or store these products for such purposes, 2. apply invented process protected by patent, 3. offer process protected by patent, 4. produce, offer, put into circulation, use, import or store products directly originated from the process protected by patent, 5. offer or deliver products which are substantive elements of invention protected by patent if offer or delivery has been made to a person who is unauthorised to use the invention and if offerer or provider is known or from circumstances has to be known that the product intended for patent infringement.

In patent law meaning production is manufacturing namely preparation of things by shaping of material. The conception of production embraces all its phases till the moment when product is made. The conception of production does not embrace preparative actions such as purveyance of machinery or its montage as well as afterwards treatment such as repair of products made by protected invention. Power to use protected invention in production is called usage authority. In legal theory usage authority is deemed as basic, fundamental patent owner prerogative (Besarovic, 2011, p. 113).

The usage authority in the case of new process invention means the exclusive power of patentee to use the process and products made in put into circulation, offer, import and store for the purpose of putting them into circulation. In the case of invention for new appliance, usage authority means exclusive power of patentee to use protected invention for purposes for which patent is granted (Vlaskovic, 1989, p. 66).

Putting into circulation is an activity the conveyance of a product from possession of one to possession of another person is enabled by. This is any operation by which the subject matter of protected invention is made available for using (Holzer, 2002, p. 4). Putting into circulation embraces patent owner power to offer the product for selling. In patent law meaning offering is an activity by which one person declares to another about possession on product supplying, if offered person is interested in (Markovic, 2000, p. 135). It is not matter if offer is made by: advertisement, consignment of written or oral offer, consignment of call in order that called one makes an offer, presentation of goods etc. It is important that offer contains all technical data indispensable for a person skilled in that field of technology to make decision.

The power of right disposition is one of powers from the patent contents. Except with patent (and petty patent) in patent law the subject matter of disposition are: right on patent application filing and right conferred by a published patent application. Disposition can be done altogether or partially, with remuneration or gratuitously. Usually patent disposal is done by onerous contract *inter vivos*, as well as by succession albeit legal basis can be legal act on status modification or administrative authority decision. One of the most significant way in which patents are legally exploited is by license agreement.

"Like other forms of property, patents may be mortgaged (or assigned as security for a debt)" (Bently, Sherman, 2004, p. 552). Security rights in patents commence by virtue of written agreement or judgement or administrative decision and registration of security rights in the patent registries governed by Intellectual Property Office. Secured creditor does not become owner of encumbered asset. Owner of patents and other encumbered rights is authorised to perform its rights (in order to obtain proceeds and pay secured debt) including so called outright transfer but registration of a secured right remains effective notwithstanding to a transfer of the encumbered asset. "Patent is not less congenial or risky as collateral in comparison to things or other rights, under precondition if patent has already been commercialized that enables certain estimation of patent value" (Varga, Planojevic, 2012, p. 413).

Exclusive legal effect of patent outspreads only on territory patent is granted for. On territory where patent law protection is not obtained, everyone is authorized to use the invention without consent of inventor and without any responsibility for patent infringement. To disable this inventor must apply for patent in other countries. If succeeds, patents granted in different countries are mutually legally independent.

Not only right conferred by a published patent application but patent itself is temporary intellectual property right. In Serbian patent law, patents are granted for 20 years. This period of time is commenced from the moment of accorded date of filing. And while temporality of patents is not disputable, length of the patent time-limit is the subject matter of discussion in the patent law theory. "Basical rational parameters taken into account regarding length of patent time-limit are: average time indispensable for economic realization of average investment in average invent, as well as average technologically life-time of average invention" (Markovic, 1997, p. 264). In connection with the latter criterion there is some kind of paradox because technological life-time of average invention indicates a

shortening tendency whereas at the other side it is historically evident a tendency of a gradual extending the patent duration. The answer is that duration of patent is determined due to the fact that investments in R&D increasing prolonging the time indispensable for return of invested resources and earning profit.

Patent owner of the unique invention can be either one or more persons. Plurality of patent owners can originate from R&D i.e. process to invent creation or be derived from the right of legal predecessor. First of all co-owners of patent are inventors. Inventors are physical persons which, through intellectual work, create new, non-obvious, industrially applicable solutions of some technical problem. Until the contrary is proved, there is a presumption that inventor is the first applicant of the invention. In the case of patent co-ownership, patent co-owners are only those inventors who created the invention working together. Those who created the same invention independently each from the other will not obtain common legal protection. In that case only one of them, who filed the patent application first, shall obtain patent. (Co-) owners of patent are authorized to transfer their right to any physical or legal person. From patent (co-)owners patent can be acquired by one or more legal entities.

In the case of patent co-ownership, every patent co-owner is authorized to use the protected invention proportionally to their shares, refraining from the co-owners' right infringement. So the preliminary issue regarding the use of the protected invention by patent co-owners is determination of their aliquot shares. If they are not able to come to terms, size of the share is determined according to the criterion of "individual inventive contribution" (Markovic, 1996, p. 770). Although the conception of individual inventive contribution is not easy to specify, it is certainly characterized by intellectual creative work targeted onto problem solution (Fiser, 2006, p. 979). At the other side it means that individual inventive contribution is not given by the persons who provide technical assistance to the inventor. Moreover they are not considered as inventors at all. The conception of technical assistance is not defined by Patent Act. If individual inventive contribution of co-inventors is not possible to establish, a legal presumption of their equality in shares is applied. If plurality of patent co-owners derived from patent assignment, their shares size is determined towards share size of assignor providing that no one could assign more than owned (*nemo plus iuris ad alium transferre potest quam ipse habet*).

All patent co-owners participate in patent maintenance proportionally to their shares. It would be appropriate if patent maintenance fees and expenses are paid by only those patent co-owners that commercially use protected invention, proportionally to the scope of the protected invention use. Notwithstanding of the protected invention use, every patent co-owner is authorized to pay renewal fee. If renewal fee is paid by a patent co-owner who does not use the protected invention, right of recourse is obtained.

Every patent co-owner is authorized to assign their share without prior consent of other patent co-owners, but license shall be provided by common consent of all patent co-owners only (Verona, 1977, p. 42; Parac, 1984, p. 73). In conjunction to patent licence, co-owners are allowed to stipulate a different rule.

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In 2011 Patent Act is laid down special provisions regarding inventions from the biotechnology field. Biotechnological inventions are inventions which referring to a product consisting of or which contains biological material or which referring to a process for biological material generation, treatment or use. In the case of biotechnological inventions, patent owner powers relate to any biological material generated from invented biological material by propagation or reproduction, in the same or different appearance but with the same traits as invented biological material. If patent is granted for invention of product which is consisted or which contains a genetic information, patent owner powers expand to any other biological material in which the product is contained, under condition of existing of genetic information in proper function, excluding human body at any stage of forming and developing (including fertilized ovum) and discovery of any of his elements, including sequences or partial sequences of a gene. But, considering that in treatments for some diseases a significant breakthrough has been made due to medications based on the elements that were isolated from the human body (Besarovic, 2005, p. 69), it was laid down that an element isolated from the human body, or produced through technical procedure, including sequences and partial sequences of a gene, can be patentable, even if the structure of that element is identical to the structure of an element existed in nature (Rule 29(2) of the Implementing Regulation to the Convention on the Grant of European Patents of 5th October 1973 as adopted by decision of Administrative Council of European Patent Organization of 7th December 2006 as last amended by decision of Administrative Council of European Patent Organization of 28th October 2009). The rationale for patentability of this kind of a discovery is the fact that the element, to which discovery is referred to is made through a technological procedure of identification, purification, classification and reproduction outside human's body, and that nature cannot perform that on her own - only human can manage something like that (Markovic, 2001, p. 709). In other words, human biological material in condition found in its natural environment and in condition where it is isolated, purified and prepared for technical appliance, from the legal point of view is not the same. The same concept goes for justification of patent law protection of chemical substances and vegetable and animal biological material (Ljubojev, Varga, 2012, p. 164). In addition it also serves for distinguishing inventions from discoveries, considering that the act of revelation itself applies only to cognition of previously unfamiliar substance or biological material in its natural environment. However, when to the act (act of discovery) are attached: isolation, filtration, cloning and other forms of adaptation, and as well, possibility of applying it for technical purposes, then the result of all that hard work can be considered to be an invention (Denoncourt, 2007, p. 109). Anyway, to get back to the issue of biological material of human character, it is explicitly stated that the industrial appliance of the sequence or partial sequence of a gene must be revealed at the very day of filling in its application. The purpose of this regulation is to prevent granting of a patent for discoveries of biological material which cannot be commercialized and are in lack of any kind of technical purpose. This proves that patentability of biological material of human origin is very delicate question of patent law. Therefore, when regulating legally this subject-matter in the boundaries of the patent law, care must be taken of, not only (patent) law, but also the interests concerning protection of human rights and environment, science development, moral, religion, and other.

PATENT LIMITATIONS

Patent is considered as an instrument for promotion of technical and overall economic and social development. Temporary exclusivity in use of patented invention indicates intention of legislator to enable patent owner to return invested effort, means and time in the process of creation of invention. However, if patent is granted without any limitations, technical advancement, competition and consumer wellbeing would be jeopardized since every monopoly can be abused. To avoid this, a legal institute must be established to preclude possibility of patent use for unjustifiable purposes. Such legal institute is patent limitations. The institute maintains the core of patent law protection but at the same time enables third persons to use patented invention without right infringement. Therefore, under patent limitations is understood an obligation of patent owner that in circumstances and under conditions explicitly laid down by Patent Act tolerates use of patented invention by third persons. Reasons for patent limitations in particular cases are: appreciation of private needs, humaneness, public interests and prohibition of monopolistic rights abuse. Patent limitations are exhaustively listed in the Patent Act. There is no patent limitation which is not envisaged in the Patent Act.

PATENT EXHAUSTION

Exhaustion of patent is almost with no absence contained in comparative Intellectual Property Law (Larrieu, Houin, 2001, p. 173) that is widely accepted in patent law and is considered as one of the most important limitation of patent owner powers (Miladinovic, 2012, p. 254/255). The legal provision is the result of American case law. The first time the US Supreme Court addressed the issue of exhaustion of patent rights was in 1853 *Bloomer v. McQuewan* case (*Interface between Exhaustion of Intellectual Property Rights and Competition Law*, 2011, p. 12).

Exhaustion of patent means that granted patent shall not extend its legal effect to acts concerning a product covered by that patent after that product has been placed on the market by, or with the consent of, patent owner, unless there are legitimate reasons for the patent owner to oppose further commercialisation of the product. In general it means that purchaser of the product made due to protected invention is authorised to use the product in accordance with its purpose and to further dispose with the purchased item without the patent holder consent.

Exhaustion of right takes place only if the disposition of product is ultimate. Legal affairs of putting the product into circulation without estrangement, but the product is pro tempore conveyed into legal or factual authority of consignee, such as lease or loan for use, is not a legal base for exhaustion of rights. Exhaustion of rights arises by sale usually. "If patent owner gains again property over the product: effects of right exhaustion shall be ceased" (Markovic, 1997, p. 301).

"For putting onto market applies the rule of specialty. Pursuant to the rule, exhaustion of right occurs only in relation to the item that has been put into circulation" (Vlaskovic, 1999, p. 62). By putting into circulation products made according protected invention, patent owners consume i.e. exhaust their patent. Patent owner shall not have more powers than other monopolists on the market. No one market monopolists is not authorised to control market existence of a sold product, neither is patent owner.

In compliance with 2011 Patent Act, art. 22, exhaustion of patent granted in Serbia takes place only if the product has been put into circulation within the Serbian market. *Argumentum a contrario* putting the product into circulation abroad shall not cause the patent exhaustion effect. In such situation, consequently, patent owner can oppose import into Serbia of the product sold abroad. Such legal regulation doctrinaire is not quite appropriate because acquiring of financial benefits, wherever they are realised, makes irrelevant any territorial restriction. Anyway it is an existing legal solution in comparative law, especially in developed countries.

When exhaustion of patent occurs, only powers to use and to dispose with the sold product are exhausted. Protected invention remains in property of patent owner. That is why they are authorised to oppose further commercialisation of sold product referring to legitimate grounds to invoke powers they hold in such a patent.

PRIVATE AND NON-COMMERCIAL USE

Invention is intended for commercial use. Therefore private and non-commercial use is not considered as patent infringement. It is important to emphasize that it is not every private use of protected invention coincidentally non-commercial one. For that reason it is necessary to scrutinize if acts done by third persons are at the same time both private and non-commercial.

USE OF PROTECTED INVENTION FOR RESEARCH AND DEVELOPMENT PURPOSES

Scientific research based on a protected invention does not represent appliance of the invention in commercial purposes and thereby it is not patent infringement (Verona, 1977, p. 48). Nowadays the limitation is extended to acts indispensable for issuing of approval to place on the market medicines intended for humans or animals' treatment or plant protection products. However in legal theory is emphasized that in interpretation of the limitation one must be circumspect and reduce it to experiments and research of technical but no economical, sociological or commercial character (Markovic, 1997, p. 298).

THE EXTEMPORANEOUS PREPARATION FOR INDIVIDUAL CASES IN A PHARMACY OF A MEDICINE IN ACCORDANCE WITH A MEDICAL PRESCRIPTION AND ACTS CONCERNING THE MEDICINE SO PREPARED

In order to be applied several conditions must be fulfilled concurrently. The medicine must be prepared for particular person. This is the person the medical prescription is issued to. The medicine must be prepared immediately after the medical prescription submission. Not before. Stockpiles must not be hoard up in advance. Preparation of the medicine must be extemporaneous. The act of the medical preparation must be done by a pharmacist in premises of the drug store only.

PRIOR USER RIGHTS

Priority regarding patent granting belongs to the first applicant irrespective if the first applicant is first inventor or no. However, because of theoretical as well as real possibility that the first applicant is not first inventor, in contemporary patent legislature, from the reason of equity and a general need that investments in innovation are protected, it is allowed, under certain conditions, use of protected invention by person who is not the first applicant. Such patent limitation shall be applied to acts performed by any person who, in good faith, before the priority date of patent application on which the patent is granted, was using the invention or was making effective and serious preparation for such use in the respective country (i.e. in the country where patent is granted). The prior users are authorized to use protected invention for production purposes solely, in their own plant or in extraneous one but for their own needs. They are not allowed to dispose with prior user's right unless they assign the plant or part of plant where they use protected invention or where effective and serious preparation for such use is completed.

Without the prior user limitation, bona fide inventors and other investors would suffer damage (Krasser, 1999, p. 528). But limitation of prior user right to use the protected invention for productive purposes only is disputable and brings into question equity rationale. Therefore certain legal scholars claim that the prior user is "also authorised to offer and put into market products made by the protected invention application, even if these acts were not performed before the moment of accorded date of patent application filing!" (Markovic, 1997, p. 308). Otherwise, prior user right would be reduced to cases of process inventions or where products made by the protected invention application are intermediate goods which the prior user uses in further production process.

THE USE OF PATENTED INVENTION ON AIRCRAFT, LAND VEHICLES OR VESSELS OF OTHER COUNTRIES WHICH TEMPORARILY OR ACCIDENTALLY ENTER THE AIRSPACE, TERRITORY OR WATERS OF THE RESPECTIVE COUNTRY

The purpose of the limitation is ensuring the smooth functioning of international traffic. The limitation is, as a minimum standard, on the proposal of France, formulated in the Article 5^{ter} of Convention for Protection of Industrial Property (Paris Convention) during the Conference for revision of Paris Convention held in Hague in 1925 (Verona, 1977, p. 58). The limitation means that there is no patent infringement in the cases of use the patented invention on the body, machinery, tackle, gear and other accessories of vessels or in the construction, operation or accessories of aircraft or land vehicles registered in any country of Parios Union or World Trade Organization, other than contracting state, when these aircraft, land vehicles or vessels temporarily or accidentally enter the airspace, territory or waters of the respective country. In these situations owners of the aircraft, land vehicles or vessels are not constrained to obtain licences on patents in force in the country in order to avoid infringing the patent.

COMPULSORY LICENCE

Compulsory licence is the situation where a third person under conditions set forth in the Patent Act and in legal procedure regulated by law obtains a power to use patented invention without authorisation of the patent holder. Compulsory licence shall be issued in two cases. Compulsory licence shall be issued if patent owner, without any justifiable reason, does not use or insufficiently use the protected invention or if patented invention is indispensable for use of the dependable invention patented by third person. In both of cases, compulsory invention shall be issued if the third person previously tried to obtain authorisation from the right holder offering reasonable commercial terms but the efforts were not successful within a reasonable period of time. Mentioned condition is fulfilled if patent owner dictates the grant of voluntary licence by commercially unacceptable conditions (Miladinovic, 2000, p. 709). Compulsory licence is laid down in the Art. 5A, point 2, of Paris Convention according to "each country of the Union shall have the right to take legislative measures providing for the grant of compulsory licenses to prevent the abuses which might result from the exercise of the exclusive rights conferred by the patent, for example, failure to work". Compulsory licence is the subject matter of many limitations. First, issued compulsory licence is in effect only toward the person it is issued to. Towards all other persons the patent is not limited (Janjic, 1962, p. 6). Second, compulsory licence acquirer is liable to pay adequate remuneration to patent owner. Third, compulsory licence is not exclusive. Forth, compulsory licence is not assignable, except with that part of enterprise in which the patented invention is used. Fifth, the aim of compulsory licence is

predominantly the supplying of domestic market and compulsory licence shall not be issued if demand on domestic market is being met by importation (Bainbridge, 2007, 434). Sixth, compulsory licence shall be issued if applicant proves possession of technological capacities necessary to use the patented invention. In the case of dependent invention, applicant must prove that dependent invention represents an important technical advance of considerable economic significance. In that case, owner of invention that is the subject matter of compulsory licence is entitled to a cross-licence.

Compulsory licence shall not be issued prior than period of four years from patent application filing or of three years from the date patent was granted is expired. It is considered as a period of time long enough that patent owner, in person or through a voluntary licence, starts to exploit the patented invention (Miladinovic, 2004, p. 820).

In the Republic of Serbia it is laid down that for the compulsory licence issuing is charged the authority competent for the field where the protected invention shall be applied. It means that in Serbia government departments resolve on compulsory licence grant requests (compulsory licence is never granted *ex officio*). Better solution would be if competency regarding compulsory licence is conveyed onto Intellectual Property Office. Intellectual Property Office would resolve on request for compulsory licence grant after Chamber of Commerce delivers its opinion about the scope of the protected invention commercial use and if applicant is enough equipped for industrial application of the protected invention. The competent body brings decision. Against the decision unsatisfied party is allowed to submit a complaint not later than 15 days after receiving the decision. Such complaint shall be submitted to the Government of the R. of Serbia. Against the decision brought by the Government it is allowed to initiate procedure in contentious administrative matters within 30 days from the decision delivery. The procedure shall be initiate by filing of action to Administrative Court.

Considering the legal regulation on compulsory licence it is obvious that interests of patent owner are protected in a satisfactory manner (Dragovic, 1997, p. 838). In addition, even in the case of compulsory licence grant, cooperation with patent owner is important because protected invention usually is not possible to use without patent owner's know-how. Therefore compulsory licence is issued very rarely. For example, in Germany from 1923 to 1943 were requested for 295 but it was issued only 23 compulsory licences. In the period from 1950 to 1979 it was filed 37 requests but no one was reached (Greif, 1981, p. 733).

GOVERNMENT USE

Besides "ordinary" compulsory licence, in patent law there is the non-voluntary licence in public interest. In both cases these are patent limitations, but differences exist as to grounds for the granting of licence for Government use and time-limits the Government use of protected invention shall be sought within.

There are three grounds for the granting of the licence for the Government use. Government use of the patented invention shall be issued: in situations of national emergency or other circumstances of extreme urgency; in cases of public non-commercial use; and if the protected invention due to the legally binding decision brought by court or administrative authority (Commission for the competition protection) is used in contrary to rules protecting the free competition. Governmental use of the protected invention is not stipulated by the previous unsuccessful attempt to acquire a contracting licence. In situations of national security and public non-commercial use do not apply provisions on time-limits for issuing the licence of the Government use of the protected invention, but patent owner must be promptly informed about the Government use decision.

Regarding the area of non-voluntary licences, inventions in the field of semiconductor technology are subject matter of Government use solely. They are never the subject-matter of "ordinary" compulsory licence.

PATENT LIMITATION IN FAVOR OF PLANT VARIETY BREEDERS

Patent limitation in favour of plant variety breeders is a compulsory licence adjusted to specific subject matter of patent (biotechnological invention) and specific legal subjects (plant variety breeder and owner of the patent from the field of biotechnology). Precisely it is some kind of compulsory licence of dependent invention including the condition regarding important technical advance of considerable economic significance. Request shall be filed to ministry of agriculture. Patent owner of independent invention has the right to cross-licence.

In spite of the name of the patent limitation, compulsory licence in favour of plant variety breeders can be issued against a plant variety breeder if some biotechnological invention can not be used without application of the new plant variety.

PATENT LIMITATION FOR USE OF THE PROTECTED INVENTION WHICH REFERS TO BIOLOGICAL MATERIAL

Patent limitation for use of the protected invention referring to a biological material exists in Serbian Patent law since 2004. It is implemented in favour of farmers. Subject matter of the patent limitations is herbal or animal reproduction material for agricultural use. By purchasing the protected reproduction material farmers are authorised, within their own property, to propagate and multiply protected reproduction material in accordance with relevant law.

PATENT LIMITATION REGARDING THE PRODUCTION OF MEDICINES FOR EXPORT IN COUNTRIES WITH PUBLIC HEALTH PROBLEMS

This is the newest patent limitation in Serbian Patent law. It did not exist till 2011. Limitation is laid down in order to harmonize Serbian Patent law with Council Regulation No 816/2006 and Decision of WTO General Council from 30th August of 2003 on implementation of point No 6 Doha declaration on TRIPS from 14th November of 2001.

Compulsory licence shall be issued if application is submitted. Decision shall be made by a government body competent for health issues. The application refers to a pharmaceutical product made according to invention protected by patent or supplementary protection certificate.

Countries with public health problems are: 1. least-developed countries appearing as such at the UN list; 2. other countries, if they are members of WTO, which notified the Council for TRIPS about the intention to import medicines within mentioned legal regime; 3. countries which are not WTO members, but they are listed by the OECD Development Assistance Committee as low-income countries with a gross national product per capita of less than USD 745.

Applicant has to try to obtain authorisation from the patent owner previously. Only if such efforts were not successful request could be submitted but not before expiration of 30 days after patent owner was asked to authorise use of the protected invention. The application, inter alia, has to contain data on estimated quantity of pharmaceutical products indispensable for solution the health public problems. Patent owner shall be informed about the filed application. They will be given opportunity to state comments on application and communicate all relevant information about the subject-matter.

If the application is adopted, compulsory licence shall not be exclusive and duration of the licence shall be indicated precisely. Quantity of pharmaceutical products necessary for resolving of the public health problems in importing country is indicated by taking into account quantities of these pharmaceutical products produced in other countries where such compulsory licence is issued. In order to prevent possible abuses in decision on compulsory licence grant shall be envisaged that medicines produced by virtue of compulsory licence must be designated by special etiquettes or other signs. Clear difference must be made because pharmaceutical products made by virtue of compulsory licence are cheaper than the same products which are not produced by virtue of compulsory licence. They are cheaper because royalty is lesser. Especially when compulsory licence granted in the cases of emergency, urgency or public non-commercial use, royalty can not be more than 4% of price paid by importing country (or it is paid in her favour).

Competent authority shall inform Council for TRIPS that decision on compulsory licence is made.

CONCLUSION

Since the first privileges issued for inventions, inventors were guaranteed by temporary monopoly in use of invention. Since the first statutes, patent has been laid down as an exclusive right. Monopoly i.e. exclusivity enables to patent owner to earn profits without obstructions and any other impediments made by competitors. However, the grant of patent is the compromise made by community and individual. This is the reason why patent is a temporary right and why data on patented technical solution have to be available to the public. Also since the first statutes and other legal acts in the field of patent law, patent limitations and exceptions have been regulated. Existing patent exceptions and limitations means that in some situations, under strictly prescribed conditions and in quite limited scope, third persons are authorised to use protected invention without patent owner consent.

Presented contents of patent powers and limitations thereof give the precise perception about the scope of legal and commercial freedom within which entrepreneur may plan and organize its business activities to earn profits and survive on the market.

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PATENT PROTECTION OF CHEMICAL SUBSTANCES AND COMPOSITIONS

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ABSTRACT

Author analyses the problem of the protection of chemical inventions in the form of substances, compositions, procedures for obtaining them and application inventions. On example of several countries, the evolution of patent protection system in this field is presented. Author also gets partially involved into economic analysis, particularly in relation to the influence of pharmaceutical companies on the development of patent system, states key elements of judicial and administrative decisions and conducts an analysis of their influence on the development of the patent system. Finally, there is an assessment of further development of the patent system in the context of individual decisions of the European Patent Office, as well as in the context of raising certain issues of patent law, establishing that powerful lobby of pharmaceutical industry will continue to have prevailing influence on the development of patent system.

Key words: *Invention, Patent, Patent Law, Chemical Substances and Compositions, Pharmaceutical Industry, European Patent Office*

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INTRODUCTION

Dynamic development of modern chemistry conditions the need for patent protection of chemical substances and compositions, as well as procedures for obtaining them. Chemical substances and compositions include: free chemical elements, their compounds, alloys and mixtures. In most of the cases, the only creative human activity in these inventions is isolation of substances and compositions from nature, although more and more often their synthesis occurs. Nowadays, inventions in this technical field are patentable, under certain specific conditions that refer to novelty and general conditions of patentability that refer to inventive step and economic applicability. Those are inventions that we often come across in everyday life and that have high range of application. Depending on use, substances and compositions can be: medications, disinfectants, hygiene products, paints, fuels and lubricants, preservatives, etc. In comparative law, these inventions can be protected as product inventions, procedure inventions and application inventions. According to Article 7 of the Patent Law of the Republic of Serbia, patentable subjects of invention are products, procedures, product applications and procedure applications.

According to an American study, patent is crucial in about 60% of research and development in pharmaceutical industry, 15% in chemical industry and only 5% in machine industry (Legar, 2007). Alternative to patent system could only be financially strong public funds that would finance this type of research. Patent protection of chemical products is particularly important for pharmaceutical industry. Creating and placing medication on the market requires considerable financial resources. All relevant estimates say that this industry could hardly survive without strong patent protection. What is characteristic of this industry is division of global market between powerful multinational companies and mutual cross licensing. Namely, besides dividing global market of pharmaceutical products, these companies have also divided research segment and are now licensing patents for each other. Thanks to this system, they make extra profit. Even though interest for gaining profit is legitimate in itself, public interest should not be neglected, particularly access to medications for all the population. Within relevant international organizations, primarily World Intellectual Property Organization and World Health Organization, often there are discussions on the relation between patent and public interest, especially public health.

PRINCIPAL SECTION

In many of the countries for quite some time this type of inventions were excluded from patent protection. Patent protection was reached gradually, by virtue of court rulings and acceptance of solutions contained in international treaties. Namely, until the start of the Uruguay round of negotiations within GATT, about 50 countries of the world, including SFR Yugoslavia, did not allow patent

protection of pharmaceutical products and some countries would not even allow protection for production procedures. (UNCTAD, ICTSD, 2005) Perhaps the best example of the evolution of patent protection system, in direction of gradual spreading of that protection, can be given by Germany. As Vlašković states, first German patent law from 1877 excluded from patent protection inventions of matter and allowed patenting of inventions which relate to procedure. Principal reason for excluding inventions of matter from patent protection was in the effort to allow undisturbed research for newer, better and cheaper procedures for the production of same matter. However, protection of procedure alone was insufficient as it did not include products obtained in that procedure. In the interest of protecting German industry, Federal Court (Reichgericht), in its famous ruling in “Methyleblau” case of March 14, 1888, extended the protection of procedures on products obtained therein. Then, in the ruling of March 20, 1889, it allowed patenting of chemically analogous procedures when new technical effect is achieved. Turning point in the development of patent law in FR Germany was the adoption of Patent Law in 1968. This law lifted the ban on patenting inventions which refer to matter and such inventions, when it comes to possibility of patenting them, were made equal with all other inventions. Further, significant ruling is also one named “Benzolsulfonylharnstoff” from 1977. This ruling recognizes the possibility of patenting medications. Finally, by adopting solution contained in the European Patent Convention, new Patent Law of the FR Germany, adopted in 1981, allows relative protection of matter already known but first time found it could be used in therapy (Vlašković, 1984).

Patent law in other German speaking countries had similar evolution, primarily due to cultural influence, but also due to permanent pressure from industrial circles. In the beginning, Switzerland showed strong resistance to patenting chemical substances and compositions and for a while carried the label of “pirate state”. Reasons for that were of economic nature as the lack of patent protection allowed Switzerland to use free of charge technologies protected in other countries. Still, the Swiss never admitted to that and justified it with basic principles of patent law. According to opinion of an expert group, commissioned by the Swiss Federal Council, contemporary research in chemistry is considered discovery and as such not patentable (Gerster, 2005). Shortly after that, following an estimate that it would be in the best interest of its powerful pharmaceutical industry, Switzerland became one of main proponents of patent protection for chemical, especially pharmaceutical products.

Our patent law had similar evolution, only much shorter. According to Article 45 of the Yugoslav Law on Inventions, Technical Improvements and Distinctive Signs from 1981, patent can be used to protect: chemical products, except chemical procedures for obtaining them; alloys, except procedures for obtaining them; pharmaceutical and alimentary procedures for humans and animals, artificial fertilizers, pesticides, herbicides and fungicides, except chemical procedures for obtaining them, and mixtures of two or more substances. Same article provided that if invention protected by patent was applied in production in the SFRY, only patent holder, his legal successor or person authorized to apply that invention in

production, gained right to place on the market product made after protected invention. Owing to the shift in foreign policy orientation, Yugoslavia got the status of observer in the European Patent Organization in 1989, following the decision of the Governing Council of that organization. As the result of these changes, in 1990 there were two amendments to the Law on the Protection of Inventions, Technical Improvements and Distinctive Signs. (Official Gazette SFRY No. 3/90 and 20/90) These amendments allowed patenting of chemical products, erased provisions that conditioned exclusive authorization of patent holder to place on the market products made on the basis of patented inventions by using inventions in production on the territory of the SFRY and extended term of protection for inventions to 20 years. At that point, Yugoslav patent law differed from European only in protection of medicaments. Comprehensive reform of patent law in the Republic of Serbia, respectively FR Yugoslavia, occurred in 1995 with adoption of Patent Law (Official Gazette of the FRY No. 15/95) fully harmonized with European Patent Convention. All subsequent patent laws were in accordance with principles established at that time and were practically only unsubstantial changes of the law from 1995.

Several theories developed in science which justify exclusion of these types of inventions from patent protection. Opposition to patent protection was mainly based on Kohler's theoretical presentations setting a thesis that preparation of new chemical compound cannot be an invention because all chemical compounds are found in nature. According to that thesis, finding new chemical compound is a discovery and not an invention. This argument partially dropped later since it was proven that many synthesized compounds do not exist in nature. Also, opponents of patent protection for this type of invention believe that granting patents for matter, due to existence of exclusive rights, hinders research for finding new procedures for obtaining them. Namely, patent for matter includes all future procedures for its production. In case new procedure is found it could not be used without consent of patent holder on matter. According to this theory, inventor will keep secret improved and more efficient procedures for obtaining matter because patent protection extends on those as well even though they were not published in patent application. Other than that, in systems that allow patenting of procedures, a theory developed that this system encourages inventors to discover and publish new procedures for production of a matter. On the contrary, it could happen that some other inventor discovers new, faster and more efficient procedure for production of the same matter. In that case, the first inventor would not have any effects from his discovery. It is also highlighted that large number of substances could be produced in only one procedure and in that case same effects would be achieved by protecting procedure as would be by protecting matter.

Proponents of the protection for inventions of matter mainly emphasize that inventor could request from the holder of basic patent on matter a license that would give authorization to use invention. In case that license contract is not concluded, inventor can request from relevant state agency to issue compulsory license which practically has same effects. The meaning of compulsory license is exactly protection of public interest, which is definitely creation of new inventions.

Proponents of this theory opine that this system encourages competition between inventors which leads to creation of new inventions. Advocates of patent protection for matter stress that one specific type of procedure stays outside of any kind of protection system – chemically analogous procedures the results of which are unexpected and special properties of matter obtained by these procedures. Considering that subject of protection could only be matter, protection for it cannot be obtained through protection for procedure. Besides, objection to this system is that it is inconsistent as it allows protection of certain matters, such are alloys and mixtures. Although discussions of this kind are mainly thing of the past, we believe that they are not unfounded. We can now say that protection for this type of inventions has become universal. Product patents enjoy widest and most complete protection. In comparative law, especially in highly developed countries, the most commonly applied principle is absolute protection for inventions of matter. This protection applies to all procedures for its production, both those already known to patent holder and those discovered later; to any application of matter which is subject of invention, regardless who and when discovered such application and to all matters related by their chemical structure and properties to already protected matter. Regarding chemical substances, as per rule patent claims are formulated by citing chemical designation and structural formula with highlighted radicals of determined content. It is possible to determine a substance by parameters of procedure but only in case when it is not possible to determine a chemical compound in any other way (“product by process claims”). If patent claim refers to composition, it is necessary to determine qualitative ratio and percentage of its components.

The smallest number of limitations regarding patent protection was in respect of protection for procedures. It is known in the chemistry that same matter could be obtained in different procedures and likewise, through adequate procedures, it is possible to obtain already known but also new matter. In theory it is generally considered that application inventions are subtype of procedure inventions. Procedure in widest sense means technical process which effects solid, liquid or gassy substance thus creating product or certain state. These procedures can be divided in production procedures and working procedures. Production procedure is defined as procedure applied on solid, liquid or gassy substrate intending to alter substrate and result in product different from substrate. Working procedure involves technical process executing certain operations, and the objective of procedure is not to alter the object in process. (Fromme 1952): Depending on whether there is a chemical reaction during procedure, procedures can be divided in chemical and physical. Following the criteria of the focus of inventor’s activity being on characteristics and flow of chemical reaction or properties of a product, procedures can be divided on original or analogous. In patent claims, for new procedure it is necessary to provide characteristics of procedures from prior art, and then cite characteristics of invention procedure that distinguish it from prior art and for which protection is claimed.

Bearing in mind that patent protection for procedure extends only on products obtained directly through that procedure, the extent of protection in this case is much narrower. Right holder is the only authorized to utilize protected procedure industrially, respectively to prohibit to third parties to use protected procedure in the production of respective substance. In concrete case, it is not possible to request protection for products obtained through another procedure which is not subject of patent protection. Regarding patent protection for products created through further processing of products obtained through protected procedure, most of law makers extend boundaries of patent protection to immediate products of production procedures protected by patent.

Application inventions are most common exactly in the chemistry field. The essence of these inventions is in application of known matters for purposes for which they have not been used before. Requests for protection of these types of inventions are often called “Swiss patent claims” because protection was first granted by the Swiss Patent Office. These inventions refer to new application of known chemical substance or composition for resolution of another technical problem. Regarding application inventions, patent claim is about protecting substance or composition contained in prior art and applied in surgical or diagnostic procedure or in a method of treatment, under condition that their application in mentioned procedures is not contained in prior art. Substance and composition in this case also have to be clearly defined. Most of the authors consider this type of inventions as a subtype of procedure inventions. In this type of inventions, the only creative human intervention is in finding application of known substance for new purposes. If a traditional approach was applied due to lack of novelty, this type of inventions could not be protected by patent. In respect of this type of inventions, there were much greater limitations than for product inventions. More precisely, this type of inventions due to lack of novelty for a long period of time did not enjoy patent protection. Namely, according to traditional distinction between invention and scientific discovery, invention creates something new and discovery only reveals something that already exists in objective reality.

Two types of inventions from the field of pharmacy are in this group: inventions of first medical indication and inventions of second medical indication. The first group includes patent protection for known matters subsequently discovered to be able to be used for the first time as medications. This type of inventions is relatively protected, only for the purposes of the use of matter or mixture in medical treatment. The case of second medical indication is about matter already used as medication in treating one illness and subsequently discovered to be able to be used for treatment of other illnesses. The invention of second indication depends on the invention of first indication. “The fact alone that new application has been discovered for known medication does not make the medication novel. Novelty requirement will be met if invention of second indication differs from invention of first indication in the manner of application, quantity of active substance, type and quantity of excipients not acting directly for treatment, etc. It is necessary that new manner of application or quantity of active substance substantially condition effect of the medication and not be of

manufacturing character, without influence on the new effect of medication.” (Kdrasa,1977), This principle theoretical position, which had been questioned several times, at the end, had its practical confirmation. Grand Appellate Panel of the European Patent Office, in its Decision G5/83, admitted patent protection of the second and all subsequent medical indications. This decision, inter alia, establishes that request for use of chemical compound or composition for therapeutic treatment of human body in principal is not different than requests aimed at certain method of therapeutic treatment of human body by certain substance or composition, and that the only obvious difference is in the form of patent claim. (EPO, 2010): When interpreting provision of Article 54 paragraph (4) of the European Patent Convention, referring to methods of treatment, the Panel concluded that the intent of “lawmaker” was not to exclude from patent protection second and subsequent medical indications but to allow use of the same substance and composition in new and inventive therapeutic applications. All doubts have been lifted by later revision of the Convention. According to Article 54(5) of the European Patent Convention: “if matter or mixture is included in prior art, its patentability is not out ruled provided that they are intended for use in one of methods for surgical or therapeutic treatment of humans and animals, in diagnostic methods applied on humans and animals and that their use is not comprised in prior art.” European Patent Office protects this type of patents by procedure patent, more precisely patent for application of adequate substance for production of medication for treatment of other illnesses.

Powerful multinational companies, through their governments, even before the TRIPS was passed, applied pressure on the governments of many countries to adopt laws that would primarily be in the interest of these companies. Typical example of that is Indonesia that, in 1989, under diplomatic pressure applied by “Interpat”, an informal consortium of big European and American chemical concerns, through its governments, withdrew draft law on patents. Shortly after that, Indonesia passed the bill which was primarily in the best interest of powerful multinational lobbies. According to Article 27 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), patents are available and patent rights can be used without discrimination regarding location of invention, field of technology, domestic or imported products. Official interpretation of this provision is that key form of “discrimination” regarding field of technology concerned was exactly “discrimination of chemical products”. Due to efforts of almost all countries of the world to become members of the World Trade Organization, pharmaceutical provision almost got its universal significance. Until then disputed protection of inventions in the field of chemistry and pharmacy became obligatory for all member states of the World Trade Organization, as well as for the states that wanted to become members.

Expectations that patent law will continue to yield under the influence of powerful pharmaceutical industry proved to be right. Issue recently raised before the Grand Appellate Panel of the European Patent Office was the possibility of patenting inventions whose novelty was exclusively based on the dosage regimen of known medication for the illness. Chemistry Department of the European Patent

Office declined the application of invention that referred to dosage regimen of nicotine acid in the treatment of hyperlipidemia (orally, once a day at bedtime) with explanation that the invention was lacking novelty and inventive step. Grand Appellate Panel, in its decision G 2/08, confirmed the possibility of patenting the same medication for different treatment of the same illness, as well as for the dosage regimen. The Panel recalled earlier decision T 1020/03 where it concludes that “method of use is not a component of therapeutic treatment and thus not covered by the first part of the sentence of Article 52(4) of the European Patent Convention, and is therefore patentable.” The Appellate Panel acted similarly in the decision from the field of biotechnology No. T836/1, according to which use of antibody IL-6 for direct impact on the reduction of tumor growth is novel in relation to indirect use of the same antibody for strengthening T cells. The Appellate Panel concludes that novelty in this case originates from new technical effect of the direct treatment of cancer in difference to treatment of immunity stimulation. (EPO, 2010): Such decision is a precedent giving unimaginable possibilities to pharmaceutical industry. Still, this establishes some sort of grey zone between doctor’s freedom to prescribe adequate medical treatment and patent law. Granting this type of patents could mean in practice that patent holder can sue any doctor who applies protected dosing of known medication. Question rises to what extent this limits the freedom of doctors in prescribing medications.

The development of chemical industry, and especially its connection to computer technologies, opens some new questions, such as computer designing of active substances, to which patent law needs to give an answer. By the technique of computer modeling and use of adequate software, it is possible to identify certain substance and make its structural model. In this case, question rises whether computer modeling software, computerized data carriers or perhaps three-dimensional computer modeled structures are patentable. The answer to this question depends on what is technical in this procedure. This has been discussed on trilateral level as well and for now there is no spirit level for patenting computer models of chemical substances even when they are on a physical structure such as data carrier. (www.trilateral.net) Still, this does not mean that if there is an economic interest for it in foreseeable future this type of creations will not get patent protection.

CONSLUSION

Patent protection of chemical products is particularly important for pharmaceutical industry. This branch of industry has had prevailing influence on patent system as a whole. Today, legislations of most countries of the world, when specific requirements are met in respect of novelty and general requirements in respect of inventiveness and industrial applicability, give possibility of protection for chemical inventions in the form of substance, composition, procedures for obtaining them and application inventions, including medications. In pharmaceutical products, there is a possibility to protect first and second medical

indication, and after expiry of a patent, possibility of extending protection by issuing certificate on additional protection. Expectations that patent law will again continue to yield under the influence of powerful pharmaceutical industry proved to be right. This process, in principle, has the same pattern characteristic for some other areas as well. As a rule, first individual cases emerge, most frequently judicial ones, where by creative interpretation of corresponding legal provisions new solutions come up, imposed by real life, and then they are embedded in legal texts and international treaties. The latest example is the decision by the Grand Appellate Panel of the European Patent Office referring to the possibility of patenting inventions whose novelty is based only on the dosage regimen of known medication for the illness. It is realistic to expect that this decision will soon be embedded in legal texts and revised international treaties. Likewise, just raising certain issues, such as computer designing of active substances, shows the direction of the reform of patent law in this field.

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PERCEIVED STRESS AND SOCIAL SUPPORT AMONG EASTERN EUROPEAN MIGRANTS IN GERMANY

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ABSTRACT

The aim of the study was to research the national and gender differences in perceived stress and social support by educational migrants and Germans. The results showed national and gender differences especially in the area of perceived stress. Migrants reported significantly higher stress compared to domestic students. Females showed also higher perceived stress results compared to man. In the area of social support also significant differences between both groups were found.

Key words: Migration, Acculturation, Perceived stress, Social Support

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UDC: 314.15(4-11:430)

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INTRODUCTION

Migration and its impact on wellbeing is getting more and more actual topic worldwide. The modern researchers have discovered connection between being migrant and depression and different psychosomatic symptoms. Humans are known to have extensively migrated throughout history. The United States for example were built on migration, and most European countries were saved by being able to send millions of people to other places when confronted with massive social, economical and psychological stressors. There are many definitions of human migration. In Wikipedia we find one of the traditional definitions: “human migration denotes any movement by humans from one locality to another, often over long distance or in large groups” (Berry, 1990, 1994, 1998, Naydenova, Ilieva, 2009, Naydenova, 2007, 2009, Wikipedia, 2014).

By every Migration and Acculturation there is a process of contention between social factors and individual coping strategies. The researches show, that there are more negative health consequences by the acculturation than the positive and salutogene consequences (Harley Eskenazi, 2006, Hyman Dussault, 2000). Immigration, even under the best of conditions, involves a series of problems that can be highly stressful and traumatizing (Carballo et al., 1998). The international students could be also described as immigrants, because they spend more than a year in different country - in new cultural, economical and social environment.

Germany has become an important immigration country in the last years – not only for refugees, but also for international students, who after their education attempt to stay in Germany. In the last years there were more than 250 000 students from abroad studying at German colleges and universities, 9 times more than in 1970. Foreign students represent 10.1% of the total student population, making Germany more attractive than other host countries like USA (Isserstadt, Schnitzer, 2004).

Data on the health status of migrants and researches on health and health behaviours of migrants and international students in Germany are still not enough. Health of migrants, both subjective and objective, is affected by the process of integration in various - positive as well as negative – ways (Naydenova, 2007; Stock, Krämer, 2001).

The process of immigration includes different social and psychological problems because of being separated from family and traditional values, and being placed in new social and cultural situations. Social integration and wellbeing for some of the migrating individuals is rarely easy and for some impossible (Carballo, Nerukar, 2001).

Some of the studies in the last years discuss the important role of different factors like social support and healthy behaviour on physical health. More recently researches focus on the specific role of social support on migrants and international student’s health (Krämer et al., 2004; Stock et al., 2002). The authors compared health behaviour and social support among two groups: international and domestic students. According to the results the international female students were less likely than German students to receive social support. Among men, long-term international student status was associated with daily smoking, whereas short-term student status was associated with a higher level of perceived stress compared with domestic students (Krämer et al., 2004).

While a large number of descriptive studies on migrant health have been conducted in Germany based on routinely available data sources, analytical migrant studies are still scarce. This is a reason why there are still challenges on this topic for future research

THEORETICAL BACKGROUND

MIGRATION, STRESS AND WELL-BEING

The current bio-psychosocial model claims that there are different biological, social and psychological aspects are in interplay and are influencing individual health.

One of the challenges is to research the well-being of migrants and the different factors, which are influencing health and health behaviour. According to the definition of the World Health Organisation health is: „a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity” (WHO, 1946, 2014). Modern concept of health includes not only its biological, but also its social and psychological aspects.

Very important factor influencing individual wellbeing and health is stress. There are plenty of articles and research results claiming the negative role of perceived stress on health (Cohen Williamson, 1991; Schwarzer, 2000; Naydenova, 2008). There are a lot of definitions of stress. Sheldon Cohen for example chose a more psychological definition. According to his theory perceived stress can be viewed as an outcome variable measuring the experienced level of stress as a function of objective stressful events, coping process and personality factors (Cohen, Kamarck Mermelstein, 1983).

One of the most popular theoretical innovations in understanding human's health is the Sense of Coherence theory of Aaron Antonovsky. Antonovsky focused on the factors that are promoting health and he called them salutary factors. The concept of Aaron Antonovsky is for first time presented in the 80-ties as an opposition to the pathogenic view on person's health in medicine and social sciences. According to this „saluto” theory person uses generalized resistance resources when confronting a stressor. Person with high Sense of Coherence will be able and motivated to cope, will aware what is needed and will believe that he has enough resources to cope (Antonovsky, 1987, 1991). This combination of different cognitive and motivational aspects the author calls components of SOC: meaningfulness, comprehensibility and manageability. According to this modern concept SOC is a global orientation, expressing confidence in life and a strong SOC is associated with a very good health. According to Antonovsky the construct Sense of Coherence is consistently feasible, reliable and valid and this is true for both genders and ethnic groups (Antonovsky, 1991).

MIGRATION, ACCULTURATION AND STRESS

The termin Acculturation stress is relatively new and its autor is John Berry, who is interested in the different forms of adaptation of migrants in the new and foreign enviroment and culture, and its influence on wellbeing (Berry, 1994).

Acculturation stress can also as defined as Migration stress – which appeare by one’s migration. The Modell by Berry is very much connected to Lazarus in which social and personality factors play very important role in well-being (Lazarus, 1981, Lazarus&Folkman, 1984).

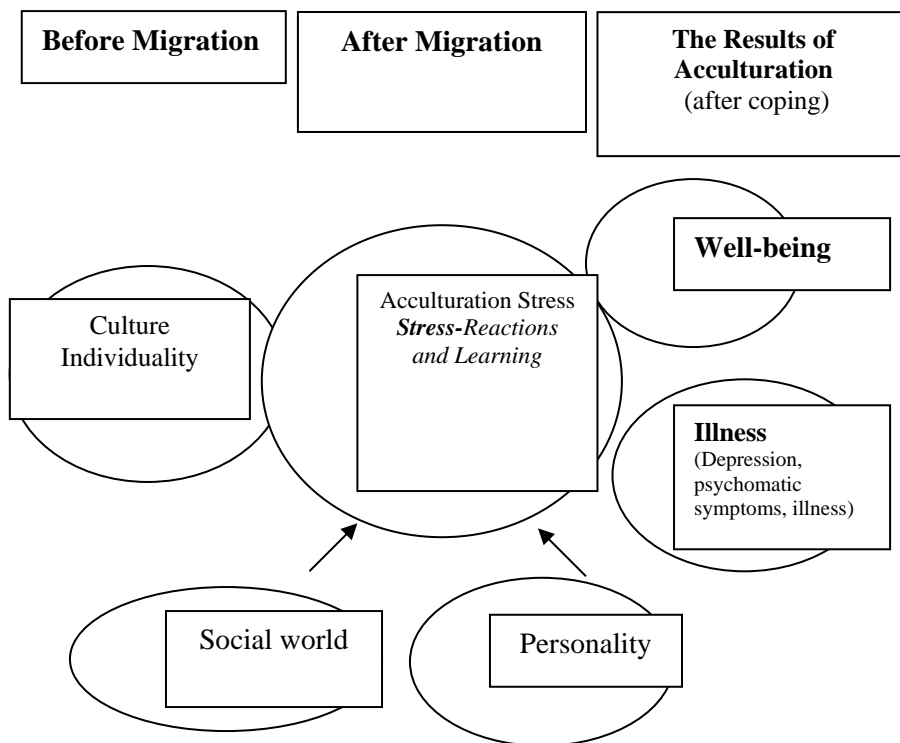


Figure 1: The influence of social and personal factors on Acculturation processes and their impact on health (Berry, 1994; Schmitz, 2001)

By the Acculturation there are two important factors to be taken into consideration – social factors and personality. There two variables can influence how stress situations are perceived and copied with.

To achieve better adaptation are very important the social contacts the the new country. To build social networks and positive relations is very important for the wellbeing of migrants (Zuhale Steptoe, 2000; Berry, 1998).

AIMS OF THE STUDY

The study is provided by 288 Eastern European migrants in Germany and Germans as a control group. The aim of the study is to find answers to the following research questions:

1. Are there differences in perceived stress and Sense of Coherence between domestic and migrant (international) students?
2. Are there differences in perceived stress between female and male and between migrant and German students?
3. Are there significant differences in social support?

METHODS

STUDY DESIGN AND SAMPLE

The questionnaire was originally developed in German. Sample was drawn among students. During lectures participants filled in a self-administered questionnaire covering different areas of health and health behaviours with a special focus on mental health. The questionnaire assessed also socio-demographic variables, sense of coherence scale (SOC-L9), perceived stress scale (PSS) and social support questions.

In the study participated 288 students, for 261 of them is received information about their nationality. 102 East-European students (educational migrants) and 159 domestic students (control sample) at the University of Bielefeld participated in a survey. Both samples reached over 95% response rate each. The samples were selected in a way to balance the representativeness for each of the groups.

MEASURES

Sense of Coherence and perceived stress were measured with standardized scales. Sense of Coherence was evaluated by the standardized Leipzig-SOC scale (SOC-L9, Schumacher et al., 2000); stress by Perceived Stress Scale (PPS) developed by Sheldon Cohen. PPS was used to measure the degree to which situations in person's life are appraised as stressful. Perceived stress scores in present study are obtained by recoding the scores on the five point items from 1=never to 5=very often into 0=never to 4=very often and than reversing items number 4, 5, 6, 7, 9, 10, 11 and 13 because in contrast to the other items they had high values for low perceived stress frequency. Afterwards scores from all items were reversed into 0=very often to 4=never, all items were summed and their mean

built. Result was a Cohen Perceived Stress Score (PPS) with high values for high perceived stress frequency.

In the questionnaire there were two questions for social support, one for quantity (how many people do support you, 1=no person, 2=one person, 3=two to three persons and 4=more than three persons) and one for quality (are you content with the support you get? 1=very content, 5=not content at all).

Data were analyzed using multiple regression SPSS statistical package (version 13.1).

RESULTS

In the sample 170 female (59.00 %) and 103 male (35.80 %) students were participating (15 persons did not report their gender, 5.2 %).

Cohen Stress Score as outcome variable is nearly normal distributed (mean 1.69, standard deviation 0.56) (range 0=very often to 4=never). Females were more stressed (mean 1.729, standard deviation 0.573) than males (mean 1.635, standard deviation 0.551). There are also national differences in stress. Migrants had higher stress scores (mean 1.737, standard deviation 0.536), compared to Germans (mean 1.669, standard deviation 0.594). The results are showed in Figure 2 and Figure 3.

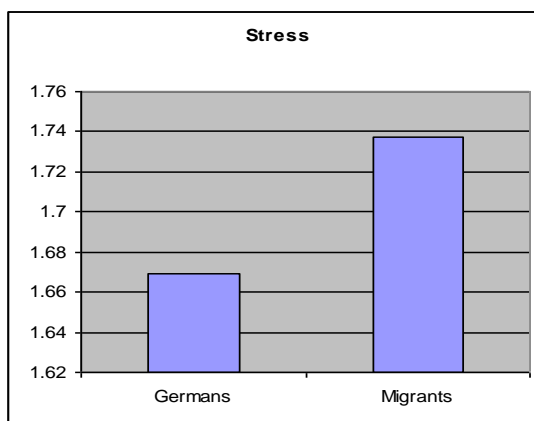


Figure 2: Perceived stress among migrant and German students

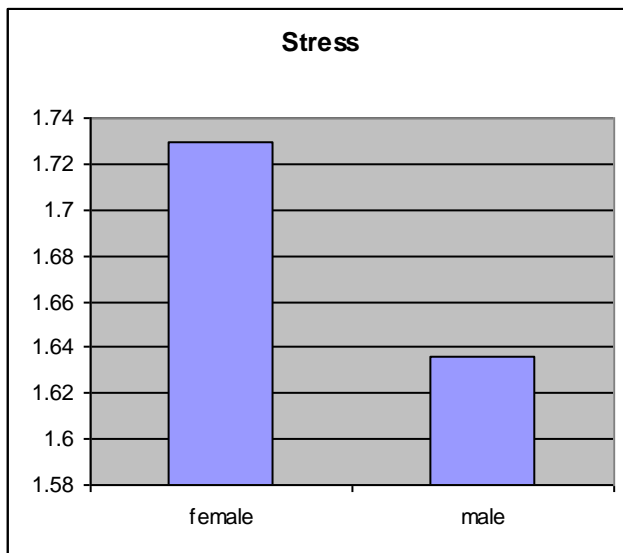


Figure 3: Gender differences in perceived stress among migrant and German students

There were national differences in Sense of Coherence scores too. Migrants had higher SOC scores (mean 4.855, standard deviation 0.957), compared to Germans (mean 4.808, standard deviation 0.999). Between both genders were found no significant differences. Female (mean 4.827, standard deviation 0.967), showed similar results in sense of coherence as man (mean 4.812, standard deviation 0.954), (Figure 4).

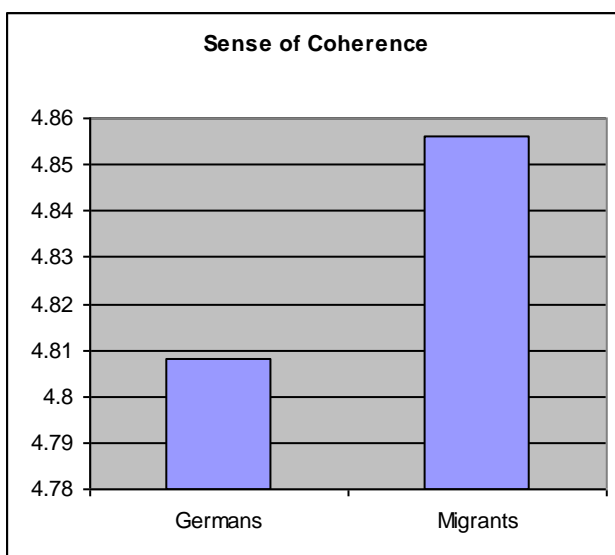


Figure 4: Sense of Coherence among migrant and German students

In the area of social support were measured significant differences between migrant and German group with the help of Pearson Chi² Test (Chi²=11,345, df=3, p=,010). More than 74% of researched Germans report that, they have more than three persons that support them emotionally in difficult situations vs. 59,4% of the Migrants. 31,7% of the Migrants receive such a social support by only two or three persons. More than 8% of Eastern Europeans report that they have only one person in difficult emotional situations (8,9% vs. 2% the control group).

DISCUSSION

The results of the present study showed national and gender differences especially in the area of perceived stress. Migrants are more likely to perceive high stress compared to domestic students. Females showed also higher perceived stress results compared to men. No gender differences were reported in Sense of Coherence. However migrants have better SOC-scores compared to domestic students. There are also significant differences in area of social support – the migrants have significantly lower social support than the Germans.

Future research needs to consider some optimizations of the limitations. Limitations of the study are the missing transferability of results to the whole population because of the student population and the necessity to take independent variables which were included in the standardized questionnaire. Strength of questionnaire is the used scales for stress and sense of coherence are standardized and tested for reliability and validity. Given the study limitations of a relatively homogeneous sample (students) collected and the reliance of the study on self-report instruments, it will be important to test the hypotheses with more diverse samples and a need of follow-up research.

The differences in social support have shown the need of special measures to the migrants group in terms of better integration and special attention.

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AN ANALYTICAL REVIEW OF THE UNCITRAL CONVENTIONS ON CONTRACTS FOR THE SALE OF GOODS AND THE STATUTE OF LIMITATIONS

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ABSTRACT

The paper analyzes the Convention on the Sale of Goods and the Convention on the Statute of Limitations that were passed within the realization of the objectives of the United Nations Commission on International Trade Law. Attention was given to these conventions because these are two crucial issues of world trade, regulation of which resulted in significant positive effects both on the development of freight transport on a global scale, as well as in terms of ensuring the principle of legal certainty in regard of limiting claims deadlines. The complexity of this subject matter is reflected, inter alia, in plain prima facie similarity between the sale of goods and the statute of limitations within a country and internationally. This is due to the fact that international transactions also include public law elements, the significance of which many legal theorists express by classifying within the field of international public law mutual business actions of two or more enterprises which are based in different countries, despite the undeniable existence of private law hallmarks.

Key words: *International Commercial Convention, International Trade, International Sale of Goods, Statute of Limitations*

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INTRODUCTION

The Industrial Revolution (second half of the 18th century) caused enormous economic prosperity which in a broader sense also meant a rapid social development (www.fme.edu.rs). Amongst other things, a great need arose for regulating the international economic relations, specifically the business transactions concluded by economic operators based in different countries. Otherwise, different views exist on the terms which denote economic and business relations with international elements, global or regional character, (Vukadinović, 2005; Đurović, 1979; Besarović, 2010; Carić, et al., 2007) which we may observe with a greater or lesser extent of international public or private law element. This led to the beginning of the process of constituting a new legal discipline - the International Commercial Law, which is yet to be completed. The International Trade Law is the set of regulations and other legal rules regulating legal relations arising from business and trade that occur in transactions of international goods and wages (Radulović, Kostić, Radulović, 2013). After the conclusion of a series of bilateral international economic agreements, as an expression of the application of principles of economy and efficiency, a need appeared for concluding multilateral international legal agreements (Radulović, 2010). Thus particular importance was given to international organizations as an extremely favorable institutional framework for the establishment of concurrent rights and obligations between the member countries. Of course, the international map of the world was largely changed and improved due to the appearance of the universal international organizations - the League of Nations and the United Nations. Within the United Nations a number of specialized organizations operate whose operations, by working towards achieving the goals for which they were established, have made a significant contribution to the field of unification of legal rules in specific social areas.

Thus in 1966 the UN Commission on International Trade Law, UNCITRAL, was established with the task of working to build the system of international commercial law, primarily by preparing and drafting conventions that will be acceptable to all member states, respecting the legal systems and national legislations in the field of commercial law, as well as the party autonomy in international commercial, primarily trade relations (Radulović, Kostić, Radulović, 2013).

The ultimate goal of establishing this commission was the unification of international commercial law and international rules to regulate the area of international trade and related economic relations. As a fundamental obstacle to a faster achievement of this goal, we would point to significant differences in terms of economic development of individual countries. However, the effect of the UN Commission on International Trade Law on international trade law can be regarded as most essential for the unification of the international rules regarding trade of goods. It is perfectly understandable that the major focus is on the sale of goods, it being the most important instrument for the conclusion of commercial transactions both internally and at the international level. Also, the statute of limitations is a legal concept which tends to draw the attention of legal theory, legislation and practice, and therefore it can be considered a great success that this issue has been

internationally regulated, which entails the realization of one of the most important legal principles - the principle of legal certainty.

So, in this paper we will consider the manner in which we regulated the issues of concluding the contract of sale of goods and the statute of limitation, by adopting relevant conventions within UNCITRAL.

CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS

The Convention on Contracts for the International Sale of Goods (Vienna Convention) is one of the most important acts prepared by the United Nations Commission on International Trade Law (UNCITRAL), and therefore represents an extremely important document and text, regulating one of the most important issues in international trade and international trade law - the sale of goods in international trade. The Convention was adopted and signed in Vienna on 11th April 1980. Upon the completion of the procedure, specified by the highest legal acts, the Convention was incorporated into the legal system of our country. The act of ratification was published in the "Official Gazette of SFRY - International Treaties", no. 10-1/84., the current legal effect of the Convention being a result of the legal continuity between the Socialist Federal Republic of Yugoslavia and the Republic of Serbia.

States signatory to the Convention enacted and adopted this convention, primarily bearing in mind the general objectives set out in resolutions on the establishment of the new international economic order, adopted by the UN General Assembly at its sixth special session, asserting that the development of international trade on the basis of equality and mutual benefit is an important element in improving friendly relations between the states and asserting that the adoption of uniform rules which would apply to contracts for the international sale of goods, and which would take into account the different social, economic and legal systems, will contribute to the elimination of legal barriers in international trade and to the development of international trade.

APPLICATION OF THE CONVENTION

This Convention applies to contracts on sale of goods between parties whose places of business are located in different states: (1) when the states are Contracting States; or (2) when the rules of private international law point to the application of laws of one of the Contracting States.

The fact that the parties have their headquarters in various countries will be important for contracts under this Convention whenever that does not follow from the contract, a former business agreement between the parties, or from notifications they received at any time before or during the conclusion of the contract.

Also, neither the nationality of the parties, nor the civil or commercial character of the parties or the contract, are not taken into account in the application of this Convention.

This Convention does not apply to sales:

- of goods purchased for personal or family use or for household purposes, unless the seller, at any time before or at the time of conclusion of the contract, either knew or should have known that the goods were bought for such a use;
- at a public auction;
- in case of seizure or other proceedings by the judicial authorities;
- of securities and money;
- of ships, hovercrafts or aircrafts, and
- of electrical energy.

Agreements considered contracts on sale also include contracts for the delivery of goods which need to be manufactured or produced, unless the party who orders the goods undertook the obligation to supply a substantial part of the materials necessary for such manufacture or production.

This Convention does not apply to contracts in which the preponderant part of the obligations of the party delivering goods consists in execution of work or provision of certain services.

It must be stated that this Convention governs *only* the conclusion of the contract of sale and the rights and obligations of the seller and the buyer arising from such a contract. Unless otherwise expressly provided, it shall not apply to: (1) the validity of the contract or any of its provisions or practices, and (2) the effect that the contract may have on the ownership over sold goods.

The Convention also does not apply to the seller's liability for death or personal injury caused by the goods to any person.

The parties may agree to exclude the application of this Convention or, in accordance with the Convention, waive any of its provisions or modify their effect. (Art. 1- 6 of the Convention on Contracts for the International Sale of Goods published in the "Official Gazette of SFRY International Treaties", no. 10-1/84).

CONCLUSION OF THE AGREEMENT

An offer to conclude an agreement is a proposal for concluding a contract addressed to one or more specific persons, provided that it is sufficiently definite and indicates the intention of the offerer to be obligated in the case of acceptance. The proposal is sufficiently definite if it indicates the goods in question, and expressly or implicitly determines their quantity and price or contains elements sufficient for its determination. The proposal addressed to an unspecified number of persons shall be considered merely an invitation to make offers, unless the

person who makes such a proposal has clearly indicated the contrary - that it is to be considered an offer.

The offer is in effect from the moment when it reaches the offeree, and even if it is irrevocable it may be withdrawn if the notice of withdrawal reaches the offeree before or at the same time as the offer.

Until the contract is concluded, the offer can be revoked if the revocation reaches the offeree before they submitted their acceptance. The offer, however, cannot be revoked: (1) if it indicates, whether by stating a fixed time for acceptance or otherwise, that it is irrevocable and (2) if the offeree reasonably believed that the offer is irrevocable and behaved accordingly.

Compliance with the offer refers to a statement or other conduct of the offeree indicating agreement with the offer. Silence or inaction by themselves do not infer compliance. Compliance with the offer shall take effect from the moment when the compliance statement reaches the offerer. Compliance will be without legal effect if the compliance statement does not reach the offerer within the period specified, or if the period was not set within a reasonable time, taking into account the circumstances of the transaction and the speed of the means of communication used by the offerer. An oral offer must be accepted immediately unless the circumstances indicate otherwise. However, based on the offer, the practices which the parties have established between themselves or on customs, the compliance of the offeree may be indicated by the execution of certain actions, such as the ones pertaining to the dispatch of the goods or payment of the price. With no notice to the offerer, compliance shall become effective at the moment action is taken under the condition that it is carried out within the time limits specified by the offerer.

Refusal of the offer is every answer to an offer which indicates compliance, yet contains additions, limitations or other changes and represents a counteroffer.

The deadline for compliance with the offer, which is specified by the offerer in a telegram or a letter, begins to run from the moment the telegram is handed over for dispatch, from the date shown on the letter, or, in the absence of the date in the letter, the date which is on the envelope. The deadline for compliance determined by the offerer over telephone, telex or other means of instantaneous communication begins to run from the moment that the offer reaches the offeree.

A belated compliance with the offer nevertheless has the effect of acceptance if the offerer, without delay, verbally informs the offeree or dispatches a written notice to same effect. If, however, the letter or other writing containing a belated acceptance indicates that it was sent in such circumstances, that it would reach the offerer on time had its transfer been regular, belated acceptance shall take effect on acceptance, unless the offerer, without delay, informs the offeree that they consider the offer as lapsed, verbally or in written form.

A contract on sale is concluded at the time of the acceptance of the offer, in accordance with the provisions of the Convention (Art. 14 to 24, *ibid.*).

SALE OF GOODS

SELLER'S OBLIGATIONS

The seller's primary obligation is primarily to deliver the goods in the manner required by the contract and the Convention, hand over the documents pertaining to the goods and transfer the property of the goods.

If the seller is not bound to deliver the goods at any particular place, their *obligation of delivery* consists of:

- (1) if, by the contract of sale, goods are to be transported - of handing the goods over to the first carrier so as to reach the buyer;
- (2) if the object of the contract are either individually specified goods or goods determined by stock that need to be drawn from a specific stock, manufactured or produced, and at the time of conclusion of the contract the parties knew that the goods were in a certain place or were to be manufactured or produced in a particular place - of placing the goods at their disposal at that place, and
- (3) in all other cases - in placing the goods at the buyer's disposal at the place where the seller of the contract had their headquarters at the time of conclusion.

If the seller, in accordance with the agreement or the Convention, hands over the goods to the carrier *and the goods are not clearly identified* as the goods intended for the execution of the contract by appropriate labelling within the documents for transportation or otherwise, the seller must send the buyer a notice on shipment which further specifies the goods.

If the seller is obliged to ensure that the *transport of goods*, they must conclude all agreements necessary for the transport of goods to a certain place by means of transport that are appropriate to the circumstances and under conditions which are customary for this type of transportation.

If, however, the seller is not obliged to *insure* goods in transport, they are obliged to submit to the purchaser, at their request, all available data necessary to insure the goods.

When it comes to deadlines for delivery of goods, the seller is obliged to deliver the goods:

- if a date is known or can be determined from the contents of the contract - on that date;
- if a time period is determined or can be determined on the basis of the contract - at any time within that period unless circumstances indicate that the buyer is entitled to set a date, or
- in any other case - within a reasonable time after the conclusion of the contract.

When it comes to *quantity, quality and type* of goods, the seller must deliver the goods in the quantity, quality and type as provided in the contract and packaged or protected in the manner specified in the contract. If the parties have not agreed otherwise, the goods are considered not to comply with the contract if they:

- are not fit for the purposes for which the goods of same type are commonly used;
- are not suitable for a particular purpose that the seller has expressly or implicitly indicated at the time of the conclusion of the contract, except where the circumstances show that the buyer did not rely, or that it was unreasonable to rely, on the expertise and judgment of the seller;
- do not possess the qualities of goods which the seller presented to the buyer as a sample or model, or
- are not packed in the manner usual for such goods or, if there is no such a way, in a manner which adequately preserves and protects the goods.

The seller is responsible, in accordance with the contract and the Convention, for any *fault* which existed at the time when the risk passed to the buyer, even if the fault became apparent later, and for every fault that emerged after the moment of the passing of risk which can be attributed to a breach of any of the seller's obligations, including the violation of guarantees that the goods will for certain time remain useful for their regular or special purposes, or retain specified qualities or characteristics.

The buyer loses the right to address the faults of goods if they have not submitted to the seller a notice in which they stated the nature of the defect, within a reasonable time from the moment it was discovered or ought to have been discovered. The buyer in any case loses the right to address the faults of goods, unless they have not notified the seller of the fault no later than two years from the date of the actual handing over the goods to the buyer, except when the deadline is inconsistent with the contractual period of guarantees.

The seller must deliver goods which are *free from any right or claim of a third party* based on industrial or other intellectual property, if claims were known to them at the time of the conclusion of the contract, or if the seller could not have been unaware, provided that the right or claim is based on industrial or other intellectual property:

- under the law of the state where the goods will be further sold or otherwise used, if, at the time of conclusion of the contract, parties took into account that the goods will be further sold or otherwise used in that state, or
- in any other case, under the law of the state where the buyer has its seat (Art. 30.-44., *ibid.*).

THE RIGHTS OF THE BUYER IN CASE OF BREACH OF CONTRACT BY THE SELLER

If the seller fails to perform any of their obligations arising from the contract or the convention, the buyer may, under the conditions specified by the Convention, (1) require the fulfilment of the obligations, or (2) require the envisaged compensation.

The buyer may also, in case of breach of contract:

- require the seller to fulfil their obligations if they are not using a legal remedy that would be contrary to such request;
- if the goods do not comply with terms of the contract, they may require delivery of other goods as a replacement only if the deficiency represents a fundamental breach of contract and the request for replacement is made either at the same time as the notice of violation or within a reasonable time after such notification, and
- if the goods do not comply with the terms of the contract, they may require the seller to remedy the deficiency by repairing, unless that would be unreasonable regarding all the circumstances.

The buyer may specify for the seller an additional period of reasonable length for the execution of their obligations.

Also, the buyer may demand the termination of the contract in following cases:

- if the non-performance of any obligation by the seller represents a fundamental breach of contract according to the contract or the convention, or
- in case of non-delivery, if the seller has not delivered the goods within the additional period set by the buyer or the seller has declared that they will not deliver within the set period.

However, in cases where the seller has delivered the goods, the buyer *loses the right to terminate the contract* if they have not done so within a reasonable time:

- in respect of overdue delivery, counting from the time when they learned that the delivery was made and
- in respect of any other breach than overdue delivery, if they knew or should have known of the breach; if the extended period set by the buyer has expired or after the seller said that they will not perform their obligations during that period, or after the expiration of the additional deadline set by the seller in accordance with the Convention or after the buyer has declared that he will not accept performances (Art. 45.- 52, *ibid.*).

THE OBLIGATIONS OF THE BUYER

The buyer is obliged to pay the price and accept the delivery goods as stipulated by the contract and the Convention. The buyer's obligation to *pay the price* includes actions and fulfilment of formalities required by the contract or the appropriate laws and regulations in order to enable the execution of payments.

When the contract is validly concluded and the price of sold goods is not defined by the contract expressly or implicitly, nor does it contain a clause on basis of which could be determined, it shall be deemed, unless otherwise stated, that the parties tacitly agreed to a price which is at the moment conclusion of the contract regularly charged in the relevant trade for such goods sold under similar circumstances.

If the price is set by the weight of the goods, net weight is used to determine the prices in case of doubt.

If the buyer has not accepted the obligation *to pay the price at any other specified place*, they must pay it to the seller: (1) at the headquarters of the seller, or (2) if the payment is to be made together with the delivery of goods or documents, then during this transaction. Otherwise, the seller must bear any increase in costs related to the payment which occurred due to changes of their headquarters after the conclusion of the contract.

If the buyer is not obliged *to pay the price at any other specified time*, they must pay it when the seller, in accordance with the contract and the Convention, put the customer at the disposal of any goods of any documents from which it may dispose of the goods. The seller may condition the delivery of goods or documents on such payment.

If the contract envisages *the transport of goods*, the seller may dispatch the goods with the condition that the goods or the documents on the basis of which they can dispose of the goods will not be handed over to the buyer before the payment of the price.

The buyer is not obliged to pay the price before they had the opportunity to inspect the goods, unless the method of delivery or payment to which the parties have agreed excludes such a possibility.

The buyer is obliged *to pay the price on the date* which is either set by the contract or which can be established on the basis of the contract or the Convention, without any need for the seller to present a request or to comply with any formalities (Art. 53.-59, *ibid.*).

THE RIGHTS OF THE SELLER IN CASE OF BREACH OF CONTRACT BY THE BUYER

If the buyer fails to perform any of the obligations they have by the contract or the Convention, the seller may:

- require the buyer to pay the price, accept the delivery or perform any of their other obligations, unless the seller opts for another right;
- set for the buyer an additional period of reasonable length for the execution of their obligations and
- claim damages. The seller does not lose their right to claim damages by making use of their rights in other respects.

Also, the seller may declare that they terminate the contract: (1) if the non-performance by the buyer of any obligation based on the contract or the Convention represents a fundamental breach of contract, or (2) if the buyer does not, within the additional period set by the seller in accordance with the Convention, fulfil their obligation to pay the price or accept the delivery of goods, or if they declare that they will not do so within the specified time.

However, in the case where the buyer has paid the price, the seller loses the right to terminate the contract if they had not done so: (1) with respect of belated execution by the buyer before they learned of the execution or (2) in respect of any breach other than belated execution, within a reasonable time: after the seller knew or should have known of the breach; or upon the expiry of the additional period set by the seller in accordance with the Convention; or after the buyer has declared that they will not fulfil their obligations even in the additional period (Art. 61.-65, *ibid.*).

RISK TRANSITION

In the Convention the risk transition is regulated so that:

- If the contract of sale envisages the transportation of goods, and the seller is not obliged to hand it over in a particular place, the risk passes to the buyer when the goods are handed over to the first carrier to be transported to the buyer in accordance with the contract of sale. If the seller is obliged to deliver the goods to the carrier at a particular place, the risk passes to the buyer only when the goods are handed over to the carrier at that place. However, the risk does not pass to the buyer until the goods are clearly identified as the goods intended for the execution of the contract by labelling, documents of carriage, a notification sent to the buyer or otherwise.
- The risk for the goods that were sold during the transport passes to the buyer at the time of conclusion of the contract. However, if the circumstances so

indicate, the risk passes to the buyer at the moment when the goods are handed over to the carrier who issued the documents embodying the contract of carriage. If, however, at the time of the conclusion of the contract of sale the seller knew or should have known that the goods were lost or damaged and did not disclose this fact to the buyer, the risk of such loss or damage shall be borne by the seller.

- In principle, the risk passes to the buyer from the moment when they take over the goods or, if this is not done in a timely manner, at the time when the goods are placed at their disposal and they commit a breach of contract by failing to take delivery. However, if the buyer is obliged to take the goods at a place other than the headquarters of the seller, the risk passes at the moment when the delivery was to be executed, and the customer is aware that the goods are placed at their disposal at the specified place (Art. 66.-70 *ibid.*).

COMPENSATION FOR DAMAGES

Compensation for damages due to a breach of contract by one party is equal to the loss suffered and the loss of profit which, due to the violations, arise for the other party. This fee may not be higher than the loss which the party who violated the agreement foresaw or ought to have foreseen at the time of conclusion of the contract as a possible consequence of a breach of contract, considering the facts they then knew or should have known.

If the contract is terminated and if in a reasonable manner and within a reasonable time after the termination, the buyer executed the purchase or the seller executed the sale for sake of coverage, the party claiming damages may receive the difference between the contract price and the price of coverage purchase or the coverage sale, as well as any other damages compensation which can be obtained on the basis of the Convention.

In the event that the contract is terminated while there is current price for the goods, the party claiming damages may, if they had not made a coverage purchase or sale, get the difference between the price specified in the contract and the current prices at the time of termination, and any other damages which belong to them. However, if the party seeking damages terminated the contract after taking over the goods, the current price at the time of acceptance of the goods applies and not the current price at the time of termination. In doing so, we take into account the current price at the place where the delivery should have been executed or, if that place has no current prices, the price in another place which can reasonably be used for this purpose, taking into account differences in the cost of transport of goods.

If one of the parties fails to pay the price or any other sum which is belated, the other party is entitled to interest on such amount, without thereby losing the right to compensation (Art. 74, 78, *ibid.*).

EXEMPTION FROM LIABILITY

If a party fails to perform any of its obligations, it will not be liable for any failure if they can prove that the failure to do so occurred due to an interference that was beyond their control and that it was not reasonable to expect of them at the time of conclusion of the contract to take such an obstacle into account, or to avoid or overcome the obstacle and its consequences.

In the event when non-performance by one party is the consequence of non-performance of a third party which it has contracted to perform the contract in whole or in part, that party is exempt from liability only: (1) if it is freed from liability on the basis of an interference which was beyond their control and (2) if the person they hired was also exempted on the basis of an interference which was beyond their control.

The party who failed to perform their obligations is obliged to inform the other party of the interference and the impact of interference on their ability to fulfil the obligation. If the notice is not received by the other party in a reasonable time after the party who fails to perform knew or should have known of the interference, they are liable for damage that occurred due to the failure to notice (Art. 79.-80, *ibid.*).

THE EFFECT OF TERMINATION OF CONTRACT

By termination of contract both parties are released from their contractual obligations, except for the potential obligation to compensate damages. The termination does not affect the provisions of the settlement of disputes or any other provision of the contract governing the rights and obligations of the parties after the termination of the contract.

The party which has performed the contract in whole or in part may request the other party to return what was supplied or paid on the basis of the contract. If both parties are obliged to make restitutions, mutual restitutions shall be carried out simultaneously.

The buyer loses the right to declare the contract terminated or to require the seller to perform replacement of the goods if it is impossible to return the goods in essentially the same condition as when received, except:

- if the impossibility of returning the goods or returning them in substantially the same condition in which it was received is not the consequence of an act or omission by the buyer;
- if the goods wholly or in part was destroyed or deteriorated due to an inspection mandated by the Convention, or
- if the goods, in whole or in part, have been sold in the ordinary course of business or the buyer consumed or transformed it in the course of its normal use before they discovered or ought have discovered the lack of conformity.

If the seller is bound to refund the price, they must also pay interest on it from the day when the price was paid.

The buyer is obliged to reimburse the seller all the benefits they had of the goods or a portion of goods: (1) if they are required to return the goods or part thereof, or (2) if it is impossible to return the goods or part thereof or to return the goods or part thereof in substantially the same condition as when received, but has nevertheless declared the contract terminated or required the seller to exchange goods.

CONVENTION ON THE LIMITATION PERIOD IN THE INTERNATIONAL SALE OF GOODS

Convention on the Limitation Period in the International Sale of Goods ("Off. Gazette of the SFRY - International Treaties", no. 5/78) was adopted on 13th June 1974 in New York.

The starting principle of the states for the adoption of the Convention was that the contracting states, consider international trade to be an important factor for the promotion of friendly relations among states and believe that the adoption of uniform rules within the statute of limitations in the field of international sale of goods makes it easier to develop worldwide trade.

THE SCOPE OF REGULATION

This Convention regulates the cases in which, due to the lapse of a certain time, one cannot require the fulfilment receivables of the buyer or the seller arising from the contract on purchase and sale of goods or claims arising from a breach, termination or cancellation of such a contract - the limitation period.

It was explicitly stated that this Convention *does not apply to special deadlines* provided for a submission of a notification or execution of any other operations, except initiating legal proceedings by one party to another, as a precondition for the establishment and enforcement of their rights (Art. 1 of the Convention on the Limitation Period in the International Sale of Goods).

In addition, the convention provides certain legal institutions or facts in the field of international sale of goods with the following meanings:

- it considers that the contract of sale of goods is international if, at the time of the conclusion of the contract, the business headquarters of the buyer and the seller are in different states;
- the fact that the headquarters of the parties are in different countries will not be taken into account if it is not stated in the contract, in the negotiations conducted between the parties or in the notification by the parties before or at the time of the conclusion of the contract;

- when one party to the contract of sale of goods has places of business in several countries, the principal place of business is considered to be the headquarters that is related to the contract and its performance, with regard to the circumstances that were known to the parties or were taken into account at the time of the conclusion of the contract;
- if a party has no business headquarters, their usual place of residence shall be taken into account, and
- when determining the headquarters, the nationality of the parties is not taken into account, nor the civil or the commercial character of the parties and the agreement (Art. 1.-2, *ibid*).

APPLICATION OF THE CONVENTION

The Convention applies only if the contracting parties, at the time of the conclusion of the international contract of purchase and sale of goods, have their business headquarters in the Contracting States.

In addition, the Convention shall apply regardless of the legislation which is to be applied on the basis of the rules of private international law, unless certain provisions of the Convention provide otherwise.

The Convention *may not be applied* when the parties expressly exclude its application.

The Convention *shall not apply to following sales*:

- goods purchased for personal or family use or for household needs;
- a public bid;
- during enforcement or other proceedings which take place by operation of law;
- securities, shares and money;
- ships and aircraft, and
- the electrical energy.

At the same time, the Convention *shall not apply to claims* which:

- occurred due to death or injury to any person;
- resulted from nuclear damage caused by the goods sold;
- are secured by collateral, mortgage or other means of security which refer to property;
- are determined in a judicial or arbitration ruling made after the procedure;
- are set by an enforceable title in accordance with the law of the place where the enforcement is sought;
- resulted from a bill of exchange, check or promissory note.

Given the nature of the Convention, it does not apply to contracts in which the preponderant part of the obligations of the seller consists in the execution of works

or provision of other services. Namely, the contracts on the delivery of goods which are yet to be made or produced shall be considered as sales only if the party who ordered the goods has not committed to deliver any material required for the manufacture or production of those goods.

Each contracting state shall apply the provisions of the Convention to contracts concluded on or after the entry into force of the Convention (Art. 3 to 7, *ibid.*).

THE TIME REQUIRED FOR THE STATUTE OF LIMITATIONS

In principle, receivables become obsolete in four years, and statute of limitations starts to run on the day when the right to claim reaches maturity, except in cases envisaged by the provisions on claims that arise from (1) breach of contract; (2) if the seller gave an explicit guarantee for the goods with a validity period limited for a certain period or otherwise, and (3) if in the circumstances provided by the law applicable to the contract, one party may declare the contract terminated before the time set for his execution. In these cases, according to the Convention, the statute of limitation starts to run depending on the particular facts, or on the dates that match the specific cases of claims.

The beginning of the time for the statute of limitations cannot be deferred: (1) by a request to submit a notification to the party involve, since the conventions does not concern and does not apply to notices or (2) by a provision in an arbitration agreement which provides that no right to claim arises until the arbitration ruling is made.

Otherwise, the time the statute of limitations arising from the fact that one of the parties violated the provisions of the contract for the delivery of goods or payment starts to run in instalments, for each individual obligation, from the day of the each individual breach of contract. If, based on the law applicable to the contract, either party has the right to state a withdrawal from the contract because of a breach of contract, and uses this right, the time the statute of limitations for each instalment begins to run from the date on which the statement is communicated to the other side (Art. 8 to 12, *ibid.*).

INTERRUPTION AND THE EXTENSION OF TIME FOR STATUTE OF LIMITATION

The statute of limitations, according to the convention, shall cease to run when the creditor performs any action which under the law of the court where the proceedings are executed is considered the opening of judicial proceedings against the debtor, or in case of staking claims by a creditor in an earlier instituted proceedings against the debtor in order to meet or admit their claim.

When the parties agree to refer the dispute *to resolution by arbitration*, the time of the statute of limitations shall cease to run from the day when one of them starts arbitration proceedings in the manner provided by an arbitration agreement or by the law applicable to such an action. If there are no provisions in this regard, the arbitration procedure is considered to be initiated on the day the motion to refer the disputed claim to arbitration was delivered to the permanent residence or business headquarters of the other party, or in the event that it has no such residence or headquarters - to their last known residence or headquarters.

The period of statute of limitations shall be suspended in any other proceedings except proceedings in which the creditor asserts their claim to get recognition or enforcement, if this is in accordance with the law applicable to those proceedings. This also applies to proceedings initiated in case of:

- the death or incapacity of the debtor;
- bankruptcy or state of indebtedness that relates to all the assets of the debtor, or
- dissolution or liquidation of a corporation, company, association, or an integrated whole when they are debtors.

In the case of joint debtors, when proceedings have been initiated against a debtor, the time for the statute of limitations provided for in the Convention shall cease to run in relation to any other party, provided that the creditor makes a written notice of initiation of the proceedings before the expiry of the limitation period.

When a creditor in the State where the debtor has their headquarters takes some other action before the expiration of the statute of limitations, which under the law of that State has the effect of time for the statute of limitations starting to run again, a new four-year term begins to run from the date which is provided by that law. When a *creditor, due to circumstances beyond their control and that they could not avoid nor overcome*, is unable to do anything to make the time for statute of limitations stop running, the period is extended for one year starting from the date when these circumstances have ceased to exist (Art. 13 to 21, *ibid*).

CHANGING THE TIME FOR STATUTE OF LIMITATIONS BY THE PARTIES

Time for statute of limitations cannot be changed and it cannot be affected by neither statements nor agreements between the parties, when the debtor, at any time during the time for the statute of limitations, extends this period by a written statement addressed to the creditor. This statement may be renewed. This does not affect the validity of the clause of the contract on sale according to which the arbitral proceedings are initiated within a time shorter than statute of limitations provided for in this Convention, provided that such a clause is valid, according to the law applicable to the contract of sale (Art. 22, *ibid*).

GENERAL LIMITATION ON TIME FOR STATUTE OF LIMITATIONS

Notwithstanding the provisions of the Convention, any statute of limitations expires no later than ten years from the date on which it began to run.

The expiration of the statute of limitations shall be taken into consideration in any legal proceedings only if they are referred to by a party to the dispute (Art. 23, *ibid.*).

CALCULATION OF TIME FOR THE STATUTE OF LIMITATIONS

Time for the statute of limitations is calculated so that it expires at the midnight on the day whose date corresponds to the day when time began to run. If no such corresponding date exists, the statute of limitations expires at midnight on the last day of the last month of time for the statute of limitations. The time is calculated according to the date that is applicable in the place where the proceedings were initiated.

When the last day of the time for the statute of limitations corresponds to an official holiday or a day when the court does not work, which hinders the process by the competent authority where the creditor launches a lawsuit or a claim expires, the time limitation is extended so as not to expire before midnight on the first day that comes after the official holidays or days when the court does not work, and when such a procedure could be initiated (Art. 28 to 29, *ibid.*).

THE INTERNATIONAL EFFECT OF TIME FOR THE STATUTE OF LIMITATIONS

The Convention stipulates that the actions and circumstances envisaged in connection with interruption and extension of the statute of limitations, which were undertaken or occurred in one Contracting State shall have effect in each Contracting State, provided that the creditor has taken all the logical steps so as to inform the debtor as soon as possible of the relevant acts or circumstances (Art. 30, *ibid.*).

CONCLUSION

Contemporary international social and economic relations are characterized, inter alia, by linking of the state and its economic entities into a broader international and regional community, i.e. integration. It is a part of the process of globalization, which has been accepted as inevitable and a prerequisite for a complete, strong development of the international system of business relations,

especially in commerce. Thusly created economic integration affects not only the economic relations between economic entities of Member States, but inevitably the situation of third party non-member-states and their business entities. At the same time, this process of economic and trade business is accompanied by the phenomenon that within said integrative wholes, due to more efficient trade transactions, unified, uniform and consistent rules of mutual business arise - the rules of international trade law.

Today, many of the rules of international trade law have been unified through a large number of bilateral and multilateral conventions, international trade practices, uniform rules of sample (reputable) clauses etc. Many rules of international trade law have their origins in private international law, with particularities required by the specific nature of trade. Also, a certain portion of the rules of international trade law, by their nature, are a result of the general sources of public international law - the international treaties, provided that these sources regulate a particular part of the commercial legal relations - trade relations in the international commerce.

In order to further the development of international trade law, within the UN system numerous measures have been taken. Thus in 1966 UN Commission on International Trade Law (UNCITRAL) was established, with the primary objective to work on building a system of international trade law, primarily by preparing and drafting conventions that will be acceptable to all member states, all the while respecting the legal systems and national legislations in the field of trade law, as well as party autonomy in international economic, primarily trade, relations.

The most important role in the regulation of international trade law was performed by UNCITRAL, achieving valuable results by preparation and adoption of conventions, model laws, rules, uniform rules, legislative and legal guides etc.

It is important to point out that to this day UNCITRAL has been successfully operating on improving the process of codification and harmonizing regulations in the most important areas of international trade law, such as the international sale of goods and the statute of limitations; international commercial arbitration; international transportation; international insurance; international transactions; matters of intellectual property; elimination of discrimination in the regulations pertaining to international trade, etc. In connection with the aforementioned, we can conclude that the most important achievements of UNCITRAL's effort include the adoption of uniform rules governing contracts on sale of goods and in connection with them, the issue of the statute of limitations.

In addition to the UN Convention on Contracts for the International Sale of Goods - Vienna Convention (1980) and the Convention on the Statute of Limitations in the Area of International Sales (1974, amended 1980), amongst other important international legal acts adopted in the framework of UNCITRAL, which have been adopted at the international level, at diplomatic conferences or through the General Assembly, we emphasize: Arbitration Rules (1976); Rules of Conciliation (1980) and the Uniform Rules Concerning the Contract Sum in Case of Failure (1983).

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PROPOSITION OF A NEW INTERNATIONAL AGREEMENT ON THE PROTECTION OF INTEREST OF BROADCASTING ORGANISATIONS

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ABSTRACT

At the time when the International Convention on the Protection of Performers, Producers of Phonograms and Broadcasting was adopted, which was concluded on 26 October 1961 in Rome (hereinafter referred to as the Rome Convention) - early sixties, there was no Internet or many other technologies of signal transmission of broadcasting organizations. Rome Convention is regulated only those forms of transmission of electronic signals broadcasting organizations that existed at that time, for example, terrestrial broadcasting. In the system of terrestrial broadcasting, transmission of television and radio signals are transmitted through the air via TV towers system fitted to a specific geographical territory. For example, a television signal for decades traveled from the television tower at the top of the RTS building, to the antenna on top of a residential building in Serbia, and further, to the television. This is no longer a picture that represents transmission of radio and television signals, today. New forms of signal transmission over the Internet, and partly through a cable distribution network are not regulated by the law. The interest of the broadcasting organizations is for their their rights to be adopted to the new technological environment and on the international level, for the new international agreement on the protection of the interests of broadcasting organizations should be adopted. This article discusses the issue of the adoption of such a agreement on which it is beeing discussed in the World Intellectual Property Organization (World Intellectual Property Organization - WIPO).

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INTRODUCTION

International regulations regulating the protection of the rights of broadcasting organizations have not substantially changed since 1961 when the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations was adopted, which was concluded on 26 October 1961 in Rome (hereinafter Rome Convention). At that time, the Internet did not exist and cable distribution of the signal was only in its beginning stages.

The emergence of new technologies and especially the Internet has opened the question of whether the interests of broadcasting organizations are adequately protected in the new technological environment? This issue has become particularly interesting following the adoption of two international treaties, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. Broadcasting organizations believe that they deserve a new international legal framework, in accordance with the new circumstances, to protect their interests.

Since 2007 World Intellectual Property Organization (WIPO), has been discussing on the adoption of a new international agreement that will thoroughly protect the interests of broadcasting organizations. The following questions open as a key points: Who will be the subject of protection; What will be the object of protection; what rights will be recognized to broadcasting organizations; how to fight against signal piracy (<http://www.wipo.int/portal/en/>).

The current negotiations show that broadcasting organizations are trying to cover all forms of signal transmission with this new international treaty.

Another issue that arises and that should be agreed is how will this be achieved? Broadcasting organizations want to prohibit any form of removing or circumventing technological protection of the signal. For example, the right of broadcasting organizations is to encrypt their signals (which has been practiced during satellite broadcasting) so that only one who has the appropriate equipment used for the encryption can receive them, and that is a subscriber to a satellite television. Only broadcasting organization or other entity with license can put on the market such devices. Putting these devices on the market from an unauthorized party represents a violation of the rights of broadcasting organizations. In addition, putting on the market a device that can break technological protection signal ("breaking the encryption"), would also constitute as a violation of the law.

Other important thing is which property rights will be granted to broadcasting organizations in the international agreement whose adoption is planned? Rome Convention currently recognizes broadcasting organizations the right to retransmission of their signals, signal recording, reproduction and public communication of such signals. The thing that broadcasting organizations want is that the new agreement clearly prevent the retransmission of their signals over the Internet. In our country, as well as other European countries, the transmission of signals via electronic networks, including the Internet, is considered as broadcasting. The problem is that only half of the member countries of the World Intellectual Property Organization (WIPO), signed the Rome Convention and a

large number of countries regulate it in a way so the retransmission of the signal over the Internet is legal. For this reason, among other things, a comprehensive international agreement that would be globally banned this practice is required.

New technologies have brought a lot of good, but also some problems in the work of broadcasting organizations, first of all, the new, sophisticated forms of piracy of their signal. The rights of broadcasting organizations are absolute which means that for the various forms of exploitation of the signal a person has to first obtain a permit from the broadcasting organization which is producing that electrical signal. Any form of unauthorized use of signals is a violation of the rights of broadcasting organizations, and it's also called signal piracy .

Signal piracy has several forms. Physical piracy signal exists when an unauthorized recording of the signal has been recorded on a physical carrier, hard drive, optical drive, USB flash drive, and so on. In addition, the exclusive right of broadcasting organizations is to perform retransmission of their own broadcasts, wired or wireless, and unauthorized retransmission of that signals is also a violation of rights and is one of the so-called virtual piracy. This problem has become particularly acute since the Internet became a popular and interactive and most important media in the world. Now the signal is distributed quickly to any point on the globe, with virtually no loss in quality. The signal can be distributed and in an encrypted format so that only certain users who have subscribed to such broadcast and have the corresponding devices can use it, as in the case of satellite television. Violation of the rights of broadcasting organizations exist when distributing an unauthorized devices whose aim is to remove that protection. These reasons have also created the need to adopt a new treaty on the international level that will protect the interests of broadcasting organizations in a new technological environment.

What is the current situation at the international level when it comes to protecting the interests of broadcasting organizations and how do the changes of the legal regime look like in the new draft of the international treaty?

HOLDER OF RIGHTS AND SUBJECT MATTER OF PROTECTION

The notion of broadcasting organizations - Neither Rome Convention nor any other international agreement, contain a definition of broadcasters. The simplest one explanation of this notion could say that it is about broadcasters that provide service to its customers by broadcasting via radio waves. That would be the definition of the broadcasters in terms of its functions, what it does and the services it provides. More detailed definition is the one that states that the broadcasters are legal entities who invest in the creation of the program and are responsible for its content.

The development of new technology has created new possibilities for signal transmission and consequently to that opened the question of whether any person, natural person or legal entity, who can distribute the signal or incorporated into its

distribution could be called broadcasters and enjoys the protection that is for the broadcasters recognized? For example, should the right recognized to broadcasters be also recognized to the so-called webcasters, natural person and legal entities who only transmit its signal (television and radio) over the Internet? Most countries, including the European Union, at the debate in the World organization pointed out that the subject property protection should not be recognized to webcasters, i.e., natural person who distribute signals exclusively over the Internet. In any case, it is one of the issues that needs to be resolved in a new international agreement and regarding which the consensus is not reached.

One definition that is included in the preliminary text of the future international agreement and that enjoys broad support, including the European Unions', is where the broadcasting organization is defined as "the legal entity that takes the initiative for packaging, assembling and scheduling program content for which it has, where necessary, been authorized by rights holders, and takes the legal and editorial responsibility for the communication to the public of everything which is included in its broadcast signal." (SCCR/27/2 Standing Committee on Copyright and Related Rights). It is therefore a legal entity responsibility for the program content and for the signal transmission, i.e., its communication to the public. There is a broad consensus that this agreement does not provide protection to, natural persons who distribute signals exclusively over the Internet, the so-called webcaster, as already mentioned. We are referring to individuals who distribute signals exclusively over the internet, therefore, it is a program - a radio or television program, which originates from the Internet or, even simpler - Internet radio and Internet television. That is not the case re-broadcasting signals over the Internet, about whom I will speak later.

The concept of broadcast (signal) - Subject of exclusive rights of broadcasting organizations is broadcast. In our country this matter Law on Copyright and Related Rights (Official Gazette of Republic of Serbia No. 104/09, 99/11 and 119/12), in Article 134, paragraph 1, and in the following way:

"Broadcast is an electrical, electromagnetic or some other signal converted into audio, visual or audio-visual content that is broadcast for the purpose of communicating to the public."

Broadcast is a key concept, or at least one of the most important when it comes to the legal protection of the interests of broadcasting organizations. It is the object of their protection. What is for the author his original work, for his phonogram producers his phonogram, for performer his interpretation, that is for the broadcasting organization broadcast.

Rome Convention and WIPO Performances and Phonograms Treaty does not provide a definition of broadcast. Rome Convention provides a definition of broadcasting and says that it is the wireless transmission of sounds or images and sounds, intended for reception by the public. (Roma Convention, article 3. paragraph 1(f)). Sounds and images are being remotely transmitted in the form of electrical signals. Electrical signals do, in a technical sense, what we call the broadcast, provided they are transmitted wirelessly and provided that they are

intended for reception by the public. This broadcast is the subject of protection in which a broadcaster has the exclusive and relative rights.

It should be emphasized that a broadcaster has the right to a signal that is produced, rather than the right to sounds and images that by using such a signal are transmitted at a distance. Electrical signals are, as stated, "bearers" of images and sounds, not sounds and images. Imagine this: the camera in the museum captures a painting. The footage is being watched by the viewers in their homes. The camera is a device that converts an optical image into an electrical signal. An electrical signal is suitable, in technical terms, to "transfer" footage of a painting to television sets in people's homes. Television sets are devices that are technically speaking going through a reverse process than the one occurring in the camera: electrical signals are now converted to images and sounds that we see on the screen. Author of the painting remains the author and he has a copyright for his image. But people in their homes would not be able to see this painting on the television screen, painting that is located in the museum, which is perhaps thousands of kilometers away from their homes, if the electrical signals did not "brought" to their homes. This enabled to them by the broadcaster, by the broadcasting organization. Broadcasting organizations had to invest some funds in the creation of the footage, or to be precise in the creation of the broadcast, the electrical signal, and because of that the law recognizes protection in relation to what is created. More simply, the broadcasting organizations are manufacturers of the broadcast, electrical signals, which when speaking in technical terms, are capable to transfer sounds and images to be to the radio and television receivers. Sounds and images can be, and often are, the subject of copyright or related rights, but not necessarily. Broadcasts are also, for example, transmitting sport events, and they are not works of authorship.

Unlike the Rome Convention and the WIPO treaties Performances and Phonograms Treaty, a new international agreement on radio broadcasting organizations contains a definition of the term signals. According to one of the proposed definitions of this term, signal is a "bearer of electronically generated sounds, images, or sounds and images, and their graphical display, regardless of whether it is encrypted or not." (Rome Convention, 1961, article 1) This definition, because of its consistency with the Beijing agreement (Beijing Treaty on Audiovisual Performances, 2012, article 2(1)(c)), is supported by the Group of Baltic and Central European countries, and also Serbia. Also, this definition is supported by the European Union.

The term "previous broadcasting" (the previous signal) - What constitutes a significant innovation in the proposal for a new international agreement is possible protection of a so-called "previous broadcasting". It is a signal that is not intended for direct reception by the general public, but for the receipt by another broadcasting organization. This is the case where one broadcaster sends a broadcast to other broadcaster which will subsequently be transmitted, respectively, communicated to the public. Also, if certain broadcasting organization has multiple branch offices and one branch office sends another signal, it is also a "previous broadcasting" or "previous signal". The point is, though, is that it is a signal that is not intended to be accepted by the public, which is also important for a

broadcasting organizations and which may also be the subject of piracy. Extending protection on the previous broadcasting, would strengthen the legal protection of broadcasting organizations.

The concept of broadcasting - Definitions of broadcasting are part of the International Convention on the Protection of Performers, Producers of Phonograms and Broadcasting, which was concluded on 26 October 1961 in Rome (hereinafter referred to as the Rome Convention), WIPO Performances and Phonograms Treaty and the Law on Copyright and Related Rights.

The definition of broadcasting in the Rome Convention - The International Convention on the Protection of Performers, Producers of Phonograms and Broadcasting, which was concluded on 26 October 1961 in Rome (hereinafter referred to as the Rome Convention), in its original English version, in Article 3 . § 1 (f), describes the broadcast on the following way:

"Broadcasting" means the transmission by wireless means for public reception of sounds or of images and sounds ".

The basic features of broadcasting are:

- It is the transmission of wireless signals. Rome Convention therefore does not provide a protection for signals that are transmitting through the wire;
- Signal transmission is for the reception by the public. The public is determined on the widest possible way. Broadcast involves the transmission of signals from one source, from one point towards multiple recipients. For example, from the antenna on the RTS building signal travels to a larger number of receivers. The opposite example from the one described takes place from "point to point", as in the case of IPTV, where signal travels from one source to those who subscribed to that television. There is an element of interactivity that doesn't exist in the "classic" broadcasting.
- Signals that make broadcasting convey the sounds or images, or a combination of sounds and images.

In the original text of the Rome Convention broadcasting is explained as "wireless transmission of sounds or images and sounds, intended for reception by the public". Thus, in a clear way emphasizes that the broadcast transmission of sounds or images and sounds.

Serbian translation of the said Article of the Rome Convention provides:

"For the purposes of this Convention, broadcasting means broadcasting of sounds or images and sounds wirelessly in order to be received by the public."

Inconsistency in the Serbian translation of article 3, paragraph 1 (f) of the Rome Convention consists in the fact that our translation of two different concepts - broadcasting and transmission – describes with the same word broadcasting. Serbian translation of article 3, paragraph 1 (f) of the Rome Convention, states, that "broadcasting means broadcasting of sounds or images and sounds wirelessly in order to be received by the public," thus the content of this notion - the notion of broadcasting, becomes blurry. Broadcast is the transmission of certain content as its literally stated in the Rome Convention, and only using that word this term

becomes essentially clear. To conclude, under the Article 3, paragraph 1 (f) of the Rome Convention broadcasting involves the following: it is the transmission of sounds or of images and sounds, which takes place wirelessly and which is intended for reception by the public. From this it can be concluded that the transfer of images and sounds, according to the Rome Convention, which takes place via cable, is not broadcast. Terrestrial television, where the transfer is made through the ether, is broadcasting, and cable TV, where transmission is via cable, is not broadcasting. Transfer of the images and sounds over the Internet, is also not broadcast because it does not take place through the ether, but by the wired route. Satellite transmission, is according to the rules the Rome Convention, a broadcasting as it unfolds through the ether.

Transmission of sounds or images and sounds, which is not intended for the public, but an individual or a defined group of individuals, for example, the transmission of sounds or images and sounds, between ground control and the airplane or astronauts in orbit, is not broadcasting. The public by the Rome Convention is an indefinite number of individuals who are in some special way connected to each other. Broadcast in terms of the Rome Convention exists only if intended for such a public.

The definition of broadcasting in the WIPO Performances and Phonograms Treaty - WIPO Performances and Phonograms Treaty gives more complete definition of broadcasting. This agreement was created due to the need for the "traditional" understanding of broadcasting to be adapted to new technological advancements. Rome Convention was adopted in 1961, and the WIPO Performances and Phonograms Treaty in 1996. For more than three decades, the technology of signal transmission significantly improved so the provisions of the convention of Rome, to a certain extent, became outdated.

Article 2, paragraph 2 (f) WIPO Performances and Phonograms Treaty states:

"The term "broadcasting" means the transmission by wireless means for public reception of sounds or of images and sounds or of the representations thereof; such transmission by satellite is also "broadcasting"; transmission of encrypted signals is "broadcasting" where the means for decrypting are provided to the public by the broadcasting organization or with its consent; "

The definition of broadcasting given by the WIPO Performances and Phonograms Treaty is more complete than those contained in the Rome Convention. It clearly states that broadcasting includes and satellite broadcasting, also. Also, it is clearly stated that the transmission of encrypted broadcast signals, provided that the broadcaster is the one that makes such a transfer, or someone else with its authority, at the same time made available to public the means for decoding such a signals. An example for this is a satellite television.

In short, the transmission of signals via satellite, looks like this. The signal starts from broadcasters (some TV station), is transmitted to the satellite in orbit, then travels from the satellite to the receiving antenna on a building, then the set-top box decodes the signal into sound and image you see on the television screen.

Satellite television can be viewed only by those who subscribe to it. No one else could do it, because a broadcaster which broadcasts the signal in order to protect it from being stolen, does its encrypting. At the same time, gives its subscribers devices for decoding, the so-called set-top-box decoders. Only a subscriber who has a corresponding decoder can see them, while others who do not have a decoder, instead of the images they see scrambled footage that was unusable for viewing. Transmission of coded signals is considered broadcasting if the decoding apparatus is opened to traffic, by the will of a broadcaster. Nevertheless, two things survive in WIPO as the essence of broadcasting: broadcasting is still only the transmission of sound, i.e., sound and images, which takes place wirelessly, and only the transmission intended for reception by the public.

Finally, the word "transfer" should be understood as a place from which the signals are sent into the ether and the place where their admission is being done, there must be a certain distance apart.

The definition of broadcasting in the Law on Copyright and Related Rights - It is interesting that the Law on Copyright and Related Rights Act does not provide a definition of broadcasting in the part that regulates the protection of property interests of broadcasting organizations. The law in Article 134 only says what is a emission, a signal, but not what is broadcast. When regulating the protection of property rights of authors, law, Article 28 mentions emission as a form of exploitation of copyright works. The law provides that under the broadcasting means "public communication of a work by wire or wireless transmission of radio or television program signals intended for public reception (radio broadcasting and cable broadcasting)." (Gazette of Republic of Serbia No. 104/09, article 28., paragraph 2). From this we can conclude that the emission, as its defines by our law, differs significantly from the definition of broadcasting in the Rome Convention and the WIPO Performances and Phonograms Treaty, primarily because under the broadcasting, it is meant not only wireless but also wired transmission of radio and television signals. Wireless transmission is called broadcasting and wire transmission cable broadcasting. In addition, our law, Article 28, paragraph 4 provides the satellite broadcasting as well as other broadcasting entirely in accordance with the definitions in the said international treaties. While in the case of wireless broadcasting television signals are transmitted through the air via the system of transmitters on Earth's soil, in the case of cable broadcasting via cable in the system of satellite television, the television signals are transmitted via telecommunication satellite.

Satellite transmission of television signals starting with a large satellite dishes placed on the ground, with a diameter usually between nine and twelve meters. The antennas (also called uplink satellite dish) are directed to the satellite in the sky, according to which television signals are sent to a specific frequency. Part of the way he travels a television signal from a terrestrial antenna to the satellite in the sky is called the "upper" link. The satellites in the sky contain some converters that change the frequency of the received television signal, and then send them to the ground. Part of the way television signals from satellites in the sky, to the receivers on earth is called the link below. Signals "link below" after crossing vast distances

usually very weak when they reach the ground. It is therefore essential that they "receive" special antenna that are essentially boosts. Finally, from a satellite dish stationed on someone's window, balcony, roof and so on, the TV signals go to a special kind of receiver that is called set-top-box. Through a set top box signals coming to television receivers.

The definition of broadcasting in the Draft of international agreement on the protection of the interests of broadcasters - One of the proposals of the definition of broadcasting in the Draft international agreement on the protection of the interests of broadcasting organizations is as follows: "broadcasting" means the transmission by wireless means for reception by the public of sounds or images or images and sounds or their graphic display; such transmission by satellite is also "broadcasting". Wireless transmission of encrypted signals is "broadcasting" in the cases where the means of encryption are provided by the broadcasting organization or with its consent. "Broadcasting" shall not be understood as it if it includes transmission over computer networks.

The latter was the subject of much debate. I believe that it is necessary to emphasize that with this agreement the broadcast that originates from the Internet will not be included in that, the so-called webcasting. So, if the signal is transmitted through the ether, and at the same time is distributed over the electronic network, the so-called simulcasting, such transmission of the signal will be treated as retransmission and in respect of such transfer of broadcasting organizations would enjoy protection under the provisions of this Agreement. This provides some answer to the question who will be the beneficiaries of this agreement? If one accepts that webcasting is not covered by this agreement, then it also means that service providers that use webcasting are not legally protected by the provisions of this Agreement.

Cable broadcasting - cable operators broadcast their programs via cable, wire path. It is one of the services that they provide to their customers. In our country, as well as many other European countries, wire broadcasting, unlike that described by the Rome Convention and the WIPO Performances and Phonograms Treaty, which says that there is only broadcast if the signal is sent through the ether, wirelessly, is also broadcasting. Cable broadcasters, in terms of their own emissions emitted through cable, enjoy the same rights as broadcasters that their programs are broadcast over the ether. It is a so-called cable casting. This should not be confused with the cable retransmission of which will be discussed later. Cable operators act in two ways: either by retransmitting, by cable, programs of other organizations (cable retransmission), or by broadcasting their own program cable casting.

PROTECTION OF BROADCASTING ORGANIZATIONS

Rights recognized broadcasting organizations – It was already mentioned which rights have broadcasters have. Article 13 of the Rome Convention states that: Broadcasting institutions have the right to authorize or prohibit: (a) recording of their broadcasts; (B) rebroadcasting of their broadcasts; (C) reproduction: 1) of its recording made without their consent, of their broadcasts; 2) recordings, made in accordance with the provisions of Article 15, of their broadcasts, and the reproduction for purposes other than those specified in those provisions; (D) communication to the public by their television shows; when it was done on the places accessible for public, by the national legislation of the country where protection of this right, has the right to determine the conditions of exercise of this right.

The right to record the signal - The right to a recording of a signal is provided as one of the property rights of broadcasting organizations in the Rome Convention. (Rome Convention, 1961, article 13(b)), Our Law on Copyright and Related Rights Act also states that a broadcaster has the right to "tape his broadcast on a sound or image carrier e.g. sound and image." (Official Gazette of Republic of Serbia No. 104/09, 99/11 and 119/12 article 13 b, paragraph 1, point 2)

However there is not a definition of signals recording even in the Rome Convention nor in our law. WIPO Performances and Phonograms Treaty states that "the term" recording "means the embodiment of sounds, or the representations thereof, in such a way that they can be read, reproduced or communicated through a device." This definition defines only the notion of recording ("tracks") sounds, while signal, as we saw above, it can be the bearer not only for the sounds but also images, combinations of sounds and images, as well as their graphic representation. For this reason, the proposed new international treaty says that logging is "the embodiment of sounds or images, or sounds and images or its representations thereof, which may be known, reproduced or communicated through an appropriate device."

The right to reproduce the recorded signal - And Rome Convention and TRIPS envisaged as one of the rights that are recognized to broadcasting organizations, the right to reproduce the recorded signal. Proposal of a new international treaty stands on the line of what was said about that WIPO treaty on performances and phonograms. (WIPO Performances and Phonograms Treaty, 1996, Article 7 and 11). In the proposed new international treaty it is said that a broadcaster has the right to "directly or indirectly duplication, in any manner and in any form, recordings of their shows." When one says that the duplication can be done directly or indirectly, this means that no distinction is made between a situation, where the reproduction is performed from the original copy of the recorded shows, or copied from a copy, indirectly. When one says that the duplication is done "in any way and in any form", it means that copies include copies in paper and digital form, as well as every other form which exists and which in the future may be invented.

Right of distribution of recorded signals - This right is not recognized under the Rome Convention. WIPO Performances and Phonograms Treaty recognizes this right of performers and producers of phonograms. (WIPO Performances and Phonograms Treaty, 1996, Article 8-12). In the same way it was proposed to also be defined and putting on the market the recordings of the shows. It means: "making available to the public of the originals or copies of recorded shows, through sale or other transfer of ownership."

Right of rental - This right does not exist in international treaties. Currently the WIPO Copyright Treaty in Article 7 and the WIPO Performances and Phonograms Treaty in Articles 9-13. envisage the right to grant pieces, subject matter of the related rights in the lease, but a similar right was not recognized by broadcasting organizations in relation to their recorded broadcast.

Right of Retransmission - The right of retransmission of emissions is envisaged by the Rome Convention. This kind of exploitation of the shows always includes two broadcasting organizations. One is the one that emits an initial (first issue) and the other that takes the show and redirects it to the users, which rebroadcasts it. More specifically, the Rome Convention provides that "rebroadcasting" means simultaneous broadcasting by one institution for broadcasting shows some other institution for broadcasting. (Rome Convention, 1961, article 3(g)) If at this point RTS broadcasts over the air (for example, through the air or by satellite, not through cable or over the Internet!), and then other broadcasting organizations takes that same program, such as First television and at the same time (while the RTS broadcasts its program!) broadcasts it to its users, that represents a retransmission protected by the provisions of the Rome Convention.

Proposal for a new international agreement envisaged that the notion of retransmission covers not only the simultaneous rebroadcasting as it is the case now, but also those that are delayed. Sometimes just for technical reasons, emissions of one broadcasting organization can not be re-broadcast at the same time as the broadcasting is takes place. In this respect, it is proposed for the re-broadcasting to takes place by any means by any person other than the original broadcasting organization, that is intended for reception by the public, to be simultaneous and, finally, to be postponed. The novelty compared to the solution in the Rome Convention are regarding the subject of retransmission. It can be any person different from the broadcasting organization that performs broadcasting, while Rome Convention speaks only of broadcasting organizations as possible retransmissions.

The right on communication to the public of shows in places accessible to the public, with payment of an admission - Broadcasting organizations have the right to authorize or prohibit communication to the public of their television shows when it is done in places accessible to the public with payment of an admission. At this point, I would point to another, in my opinion, an important omission in the translation of the Rome Convention into our language. Namely, in the translation of the Rome Convention (Official Gazette of FRY, International treaties, 13/2002) states the follows:

"Broadcasting organizations have the right to authorize or prohibit communication to the public of their television broadcasts; when it shall be a matter for the domestic law of the country where protection of this right, has the right to determine the conditions of exercise of this right."

After words "their TV shows," in Serbian translation, there is a dot and a coma. It does not correspond to the original text of the Rome Convention because after these words there is a dot and a coma. Failure is not only in the syntax but essential because it gives a completely different meaning to a legal norm, other than the one stated in the original text of the Rome Convention. In the Serbian translation of the Rome Convention it literally writes that "the Broadcasting organization have the right to authorize or prohibit communication to the public of their television broadcasts", which is not true. They have this right, but only if it is a public communication of which was carried out in areas where the public has access against with payment of an admission, and not in any other case. Wrong use of a dot and a coma, in a place that does not correspond to the original text, leads us to a completely wrong conclusion where a broadcaster has the right to prohibit the communication to the public of their broadcasts.

In any case, this provision is today, to some extent, overcome. At the time of its creation, and that was the beginning of the sixties of the twentieth century, cinemas, restaurants and other similar places were charging tickets to the premises in which there were TVs. Today that practice is mostly gone. Broadcasting organizations do not have this right in the case of televisions that are placed in the lobby of a hotel, in the garden of a restaurant and so on. If admissions are not being charged to anyone watching that program, there is no basis to request payment of a fee.

The concept of public communication is defined in Article 8 of the WIPO Copyright Treaty and Article 2 (g) of the WIPO treaties Performances and Phonograms Treaty. In the latter, the notion of public disclosure encompasses every aspect of the perpetration of performances and phonograms available to the public through "any media, other than broadcasting". Therefore, only the form of communication to the public of performances and phonograms that takes place over the air (which is broadcasting!) is not considered as public announcement in the meaning of Article 2 (g) of the WIPO treaties Performances and Phonograms Treaty.

In the proposal for a new international agreement there is an intention to define the concept of public communication signal widest possible. The proposed definition says: "communication to the public means transmission or retransmission of the signal or his recording, through any media or platform."

Cable retransmission - Cable retransmission exists when the broadcasting signal is re-broadcast via cable, by wire path. Today, cable operators tend to receive broadcast signals via satellite so that then they, could via cable distribution system, at the same time as its being broadcasted in unchanged form, transfer to its subscribers. Technically, the retransmission not necessarily has to happen at the same time and it does not have to be unchanged, but when it comes to the legal concept of retransmission, then it is limited only to simultaneous and unchanged retransmission, by cable. The Rome Convention does not provide the right to a cable retransmission signal. Our Law as well as many others in Europe define such

a right. (Official Gazette Of Republic of Serbia No. 104/09, 99/11 and 119/12, article 136, paragraph 1) The intention of a broadcasting organizations in connection with the concept of retransmission in a new international agreement is to be extended to the so-called deferred ("delayed-deferred retransmission") retransmission. One of the definitions proposed in future international agreement says: Retransmission means the simultaneous or deferred transmission of broadcasts, by any means, by any person different from the broadcasting organization which is broadcasting with the aim of its communication to the public.

Retransmission of signals over the Internet - Retransmission of the signal over the Internet relates solely to the situation where the signal, at the same time or delayed compared to the initial program, is transmitted over the Internet. Internet users can basically use two ways to get to certain content on the Internet. The first is downloading, which allows the user to file download from the Internet and copy it on its computer. Another way is to stream. Streaming is a data transfer over the Internet that allows the user to receive some information and it does not download it on its computer. Streaming is broadcasting live or deferred. In the first case the Internet user receives information that occurs at the same time that the broadcasting is happening, for example over the internet watching football that is being played, that is streaming live. Deferred streaming exists when, for example, on YouTube we watching a video that was recorded earlier and as such is stored on the server of which provides streaming services, and that is YouTube. In any case, the main feature of streaming is that the user does not accept the provider of such information and does not copy it to his computer. Retransmission of signals over the Internet, it is possible, will be the subject of protection in the new international treaty.

This situation should be clearly distinguished from streaming originating from the Internet. It is the transmission of information that has its origin on the Internet, called webcasting. Television that is transmitted exclusively over the Internet or radio that is publicly announced exclusively over the Internet are examples of webcasting. Such streaming will not be protected by the provisions of this Agreement. It should be noted that the streaming content originates from the Internet and is always communicate to the public that is happening from "point to point". Even when a program that originates from the Internet, such as a web radio, reports a larger number of users, and even then such communication can be described communication from point to point that is taking place in two directions. The user is the one on which request is transmitted that radio program. In the case of "classic" radio transmitted through the ether, radio listeners simply tune in, set the appropriate frequency and listen to the program. For this reason, among other things, broadcasting is described as technology transferring signals from one point to a higher number of points ("point to multipoint" technology), respectively, from a single source to a large number of recipients. In the case of web radio, internet users "initiates" radio program by pressing a certain link and the radio operator (webcaster) allows him. So there are individual connections between each individual user and the source of a certain content, webcaster, and that communication takes place simultaneously in favor of a larger or smaller number of Internet listeners or viewers.

Simulcasting - Simulcasting is the simultaneous broadcasting of radio or television broadcasting classical pathway (over the ether, via satellite) and over the internet. This form of retransmission shall be protected by provisions of the new international agreement.

Making available the recorded signal - Right of making their work available to the public is the exclusive right of authors to authorize or prohibit that his work is put on the internet or other interactive media. This right was first introduced by WIPO Performances and Phonograms Treaty and is a direct consequence of the development of the Internet and new forms of communication. In this case, users can access a copyright work at the time and place of their choice. This interactivity is probably the most important feature of the property right. In all other cases the linear transmission of information, in the case of "classic" television and radio, listener or viewer can choose at what time will they consume content, while also in the case of interactive media such as the Internet, it becomes possible. Streaming is an example of making available the work to the public. Author puts his song on You Tube, and the user chooses the time and place when you will consume. It is not crucial that the work actually be streamed, but the exercise of this right is crucial that there is a possibility to do so. Setting up work on the Internet, make it available to the public, is the essence of this right.

CONCLUSION

Increasingly intensive development of new technologies has led to the need, in the most important international body dealing with intellectual property protection, the World Intellectual Property Organization (WIPO), to led the discussions on a new international treaty on the protection of broadcasting organizations. The negotiations are going slowly and with difficulty, but also not for a moment did not call into question its validity and they will in probably lead to Diplomatic Conference dedicated to the conclusion of an international treaty on broadcasting organizations. It is essential that in the process of negotiations of the World Organization member states agrees on the following: 1) what is the subject of the protection of broadcasting organizations; 2) who will be the subjects protected by the new treaty; 3) what rights will be recognized. In an effort to overcome the above mentioned issues, it is necessary to keep the two directions. First, it is important that solutions from international treaties to the greatest extent possible consistently with solutions from existing international treaties. On the other hand, it is necessary to introduce certain innovations in the legal regime of protection of broadcasting organizations because the existing technological environment, they are not protected as they were used to. A new international agreement, whose adoption was supported by all developed countries, including the European Union, should bring more legal certainty for broadcasters, and to open the way for a successful fight against the so-called signal piracy.

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THE DEVELOPMENT OF E-GOVERNMENT IN SERBIA AND THE MOTIVATION OF CITIZENS CONCERNING THE USE OF E-SERVICES

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ABSTRACT

In Serbia, the key issue in the context of the association of Serbia to the European Union is the question of public governance through the application of the e-Government concept. This concept of e-Government is functionally organized on contemporary principles of service-oriented processes which are automated by the application of information and communication technologies and it represents a highly complex process that needs to be addressed on a global level, through technical equipment, communication infrastructure, education of both employees and users of services in question. The development of e-Government in Serbia is in progress, but the use of e-Service they offer on their portal is yet to be completely realized. The subject of this study is to estimate the level of development of e-Government in the Republic of Serbia for the year 2014, based on the analysis of the results provided by the e-Government development index, representation of e-Government services, and the assessment of the functioning of the state governance. Data for this paper were taken from the report from 2014: UN e-Government Survey. (UNPAN Data Center), Coordinating for Cohesion in the Public Sector of the Future – COCOPS and the Statistical Office of the Republic of Serbia. The aim of this paper is to, based on the analysis of the current situation, define and identify the factors which are recognized as critical activities because of which the citizens are not sufficiently using services of e-Government. The purpose of this paper is to understand the concept of e-Government and to motivate people to use e-Services more. In this regard, this paper will represent e-Service – “The replacement of old (paper) driver’s license for a new photocard license“, with all its advantages concerning its use as well as benefits for the users. The project is a complete e-Government solution in the Republic of Serbia which connects three branches of electronic administration – government authorities, business entities and citizens.

Key words: *E-Government, E-portal, Information and Communication Technologies, E-Service*

JEL Classification: *M15, M48, M53*

UDC: *351.076:[004:007*

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INTRODUCTION

Management of new technologies and innovations is now the most significant part of any development strategy of every successful state and thus represents the key resource for contemporary businesses. In regards to that, the technological revolution has changed the basic business activities and created a new social-economic structure which is often referred to as the Information Society, the Society of Knowledge, the Digital Society, etc. An important segment in the process of building such a society is the preparation of public management for the European Integrations. The realization of this concept is of the utmost importance because of its role of the initiator of the development of other segments of our society. Modern and efficient public governance is necessary to our citizens and economy and it is also very important as a support to the economic prosperity of every country.

The management of new technologies and innovations, software tools, new rules and more sophisticated users, enable an entirely new approach to the work of public governance so as to provide our citizens with electronic access to various services on the principle of full transparency. Today, that represents the most significant part in the development of every successful country and thus represents the key resource of the modern management of public governance.

E-Government represents a modern and user-oriented communication between the state and all other social subjects (citizens and business entities), as well as between government authorities themselves. It is functionally organized on modern and contemporary principles of service-oriented state, which use technologies in order to make efficient and most importantly, user-oriented processes.

One of the key issues for the countries aspiring to become members of the European Union is the question of the efficiency of public governance. The accession of Serbia to the European Union has started in the year of 2000. The European Union in all its strategic documents highlights the importance of creating preconditions for e-Government. A great number of projects (Modinis, eTEN, IST, IDABC, CIP) which are or will be in progress by the end of 2015 include the promotion of e-Government and are in the function of managing and implementing the “Action plan of e-Government i2010: Acceleration of e-Government for the benefit of all“ which the “Action plan for the implementation of the Public Governance Reform Strategy of the Republic of Serbia for the period between 2014 and 2016“ leans on.

The aim of public governance and its concept of e-Service is to enable citizens, businesses and other entities to be able to meet their obligations and requests to the Governance in the most efficient way, with minimal costs and physical contacts with the government authorities, through the number of different electronic-based channels for the delivery of service (web, mobile phones, digital TV, etc).

In regards to that, this study will include:

- Theoretical considerations based on the literature in e-Government area
- The analysis of the subject of how citizens are technically and digitally ready for new transformations concerning computer literacy and use of e-Service
- Deliberation and promotion of computer project “The replacement of old paper driver’s license for a new photocard license“ as an example of good service practice in the field of electronic services
- The analysis and conclusion based on the results

LITERATURE OVERVIEW

Since the mid-nineties, public and private sectors have been dealing with the problem of how to most efficiently use new information and communication technologies, such as the Internet, so as to build better relationship with the users as well as to deliver the service. Active development of online services has practically begun in the year of 2000 (Accenture, 2001). What was given in the documents of the European Commission (The European Commission, 2005. Chevallerau, 2005) was a systemized overview of the data of the principles of the application of information and communication technologies (hereinafter ICT) and the activities regarding the development of e-Government in the member states of the European Union.

These aspects are the subject of a greater number of scientific researches, and in this paper a scientific research in terms of the acceptance of e-Government by the users and the assessment of the quality of public service of e-Government will be briefly shown.

What was used as a starting point for this paper was a conceptual model which was based on (Warkentin et al. 2002., pp.157-162):

- The citizens’ trust as a fundamental catalyst for the acceptance of e-Government. This model contains numerous ways to increase the level of trust that the citizens demonstrate to services of state bodies.
- Changeable factors of influence in a conceptual model (perceived risk, perceived usefulness and perceived ease of use) and
- Cultural factors such as distancing of power – the difference between the lowest and the highest social classes and the factor of “uncertainty avoidance“ i.e. avoiding risk.

DEFINITION

Modern literature offers numerous definition of the term e-Government, depending on whether it is observed from the perspective of politics, sociology, technology, organization, safety, etc. From each of these perspectives, the term electronic Government is slightly different term, thus the definitions of e-Government vary mostly in the concept of understanding and the ways the authors see e-Government. We shall cite the following:

- Electronic Government (e-Government) refers to the use of information and communication technologies in realization of tasks and processes in relation to the state and public governance. The essence of this concept is important because of the possibilities of promoting, supporting and enhancing administrative procedures and democratic processes that come from the ICT (Stability Pact eSEE Initiative. 2006. p. 5).
- Within the European Union, e-Government is defined as the use of ICT in public governance combined with organizational changes and new knowledge and abilities of the employees, with the aim of enhancing public services and democratic processes and strengthening the support which goes to public politics (European Commission 2005., pp. 9-13);
- Definition from the perspective of technology: The term of e-Government refers to the use of information technologies (for example WAN, Internet, mobile computing) by the public governance, that have the power to change relations with the citizens, businesses and other branches of public governance (ministries, agencies).

These technologies can be used in a number of areas:

- better delivery of government services to citizens,
- enhanced interaction with enterprises and the industry,
- authorization of citizens by enabling them access to information, and
- more efficient management of the Government.

Considering the subject in question and as a conclusion of this overview of different definitions, in this paper the following definition shall be used:

“E-Government is the way the Government and administrative authorities apply the latest ICT (Internet and Web technologies), so as to enable the citizens and private entities” to have a transparent and controlled access to information generated by the administrative bodies, private and public electronic services that enable:

- ease of access and the ability to respond to citizens’ requests,
- efficient fulfillment of everyday administrative needs, and
- more efficient management of the Government.

TERM ELECTRONIC GOVERNMENT AND ITS DEVELOPMENTAL STAGES

To form modern state governance means to replace the existing, obsolete administrative structure with a cooperative model of governance where we can find clearly defined jurisdictions between different authorities which communicate efficiently, share information and successfully accomplish all public services for both the economic sector and the citizens.

The greatest problems our citizens deal with when carrying out their everyday tasks are crowds at the counters, arriving several times to perform the same job, visiting several institutions in order to complete the same job, filling out a large number of forms and applications, working hours of the counters, unnecessary complexity of simple tasks, high administrative costs, and so on. Implementation of e-Government should solve the aforementioned problems; enable suppression of corruption and other forms of crime.

Electronic Government represents a form of electronic commerce by the state governance and it refers to providing electronic services to different target groups in public, such as other government departments, agencies or partners. The aim of electronic government is to enable an easier, less expensive and more transparent interaction between government and citizens (G2C), government and business entities (G2B) as well as between government agencies themselves (G2G).

E-Government goes through five developmental stages: (Al-Khatib, 2009.)

Web presence – a basic form of e-Government that uses static Web presentations for providing basic information about its business and services that they offer to citizens, enterprises, employees and other government entities.

Online Government provides the basic level of interaction between the Government and the users by efficiently using the search system, the e-mail system, downloading documents, etc.

Integrated Government allows users to perform complete online transactions (citizens can use online services, such as obtaining certain permits, tax returns, update personal information, etc.). Business organizations use services such as reporting on financial performance, fulfillment of tax forms, license applications and others.

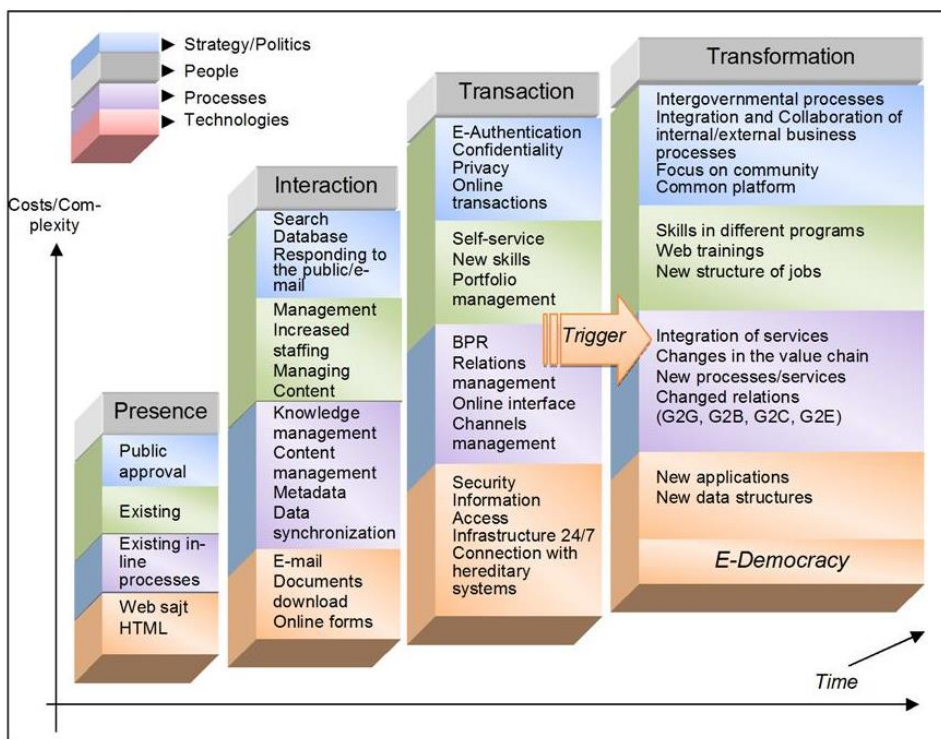


Figure 1: Maturity model of e-Governance

Source – Adapted – Gartner research (2000)

http://www.csisigov.org/emerging_pdf/17_152-157

Transformed Government– includes automation and digitalization of all operative and strategic processes of the Government. Transformation refers to both vertical (e.g. Government on different levels) and horizontal integration (e.g. Government entities at different locations), and the involvement of intelligent, integrated systems. At this stage, when resources of infrastructure, platforms and applications are used, the possibility of a better use of these resources by using the advantages of integrated cloud computing services is being recognized.

E-Democracy is a long-term goal of the development of e-Governance. It implies the introduction of tools such as online voting, surveys and research, government's attempt to improve political participation, involvement of citizens, political transparency and so on. E-Democracy gradually changes the way people make political decisions and ensure the necessary transparency as the basic precondition for transforming the state administration from the role of ruling the people to more administrative role. The maturity model of e-Government's services and processes is shown in figure 1.

ELECTRONIC GOVERNMENT – NATIONAL PORTAL

E-Government portal is the basic link and the first more serious step in developing e-Government. It represents a unique and central item in approaching the citizens and business entities when it comes to using the appropriate online service. The access via portal can be established from work places, home computers or public information kiosks. It was released at the address www.euprava.gov.rs and it has been available to the public since June 2010, when it has started to continuously maintain, develop and introduce technical enhancements and new functionalities.

The portal has the role of merging web sites of the ministries, state governance authorities and agencies in the purpose of:

- Creating a central access point and realization of e-Services to citizens and business entities;
- Centralized authentication and authorization of citizens and businesses to use online e-service of e-government;
- Creating a unique access point for publications of online e-Service of the ministries, state authorities or agencies, so as to establish unique standards for developing and implementing e-Service of public governance.

To use these services, citizens should have:

- a computer with Internet connection,
- programs that can be downloaded for free,
- ID card with a digital certificate, and
- A card reader that can be used for all the documents with the qualified certificate (ID card or driver's license).

The portal represents a great infrastructure that at the moment has around 600 services, 50 local self-governments and 60 republic authorities. We concluded that the most valuable services are the ones that satisfy users' needs the most and those that create a different kind of quality than the one of going to the counters. That is the simplest answer to the question of how to increase demands for using e-services. The basic rule of web design is to create a quality interface; quality messages that shall be presented to all visitors; and to make quality and concise instructions that will explain to the citizens in just a several steps what will be expected of them so that they will be able to use the system.

It is important that these services are available 24 hours a day, 7 days a week, and 365 days a year. Instead of going to the institutions of state governance bodies, agencies and offices to fill in applications and registration or to certify certain forms, all operations are performed by connecting to the Internet and filling out web forms.

EVALUATION OF THE DEVELOPMENT OF E-GOVERNMENT IN SERBIA FOR 2014

UNPACS (*United Nations Public Administration Country Studies*) evaluates the development of e-government in the member states of the United Nations, according to whose methodology 193 countries in the world are ranked in terms of competitiveness in this area. By carrying out this report, UN tried to provide member states with some quantitative indicators, so that they would be able to notice the areas that show both weaknesses and good results. It also ensures quantitative information on the willingness of the member states to accept e-Government.

In this paper, reports and rankings of UNPACS will be perceived as tools for the insight in current state of certain areas and for further enhancement of electronic services.

METHODS OF RESEARCH

Within the framework of the theoretical and practical segments of this paper, the following scientific-research approach that was adjusted according to the theoretical and practical framework will be used:

- composite indicator of e-readiness, consisting of three independently measured indicators: web index, the infrastructure index and the index of human resources,
- inductive - deductive method, which includes the method of making conclusions starting from general items and continuing to specific individual findings, and finally concluding about general opinions based on individual or specific facts,
- analysis and synthesis methods, which include breakage of complex concepts, judgments and conclusions on simpler component parts and the study of each part for itself, but also in relation to other parts, or elements in the process of connecting,
- method of abstraction and concretization as a thought process, which we use to deliberately separate irrelevant parts and underline important elements and characteristics,
- method of description, i.e. a procedure of a simple description or reading the facts, and empirical validation of their connections and relations,
- method of comparison that represents a procedure of forming personal opinions and conclusions.

Theoretical part of work is based on reviewing and using specialized and scientific literature and gathering information out of secondary information that are related to the subject of this paper (Internet and Web services).

SCOPE AND PURPOSE OF THIS RESEARCH

This research is related to determining the popularity of e-Government in Serbia, with the purpose of establishing how much the citizens are familiar with the services of e-Government of the Republic of Serbia. The results show that the majority of interviewees are familiar with the work of e-Government, but a staggering 70,37 % of interviewees have never used services of e-Government (Kreća, Vasković, 2013).

When it comes to processing the results of e-Government, there is no unique and relevant indicator that could evaluate the progress and realization of goals. The only universal attempt of quantification was made by the UN (UN, Department of Economic and Social Affairs, 2008), which has been following the results of the member states for years, by using composite indicators referred to as e-readiness and e-participation. This paper considers the results for Serbia and for the countries in our immediate environment, on the basis of the UN research.

The research in this paper refers to the analysis of the status of e-Government in Serbia, based on the UN report for 2014 (UNPAN 2004, 2015), so as to define the reasons why citizens of Serbia don't use e-Government services more. We shall use a composite indicator of e-readiness which consists of three independently measured indicators: web index, infrastructure index and human capacity index.

The main goal is raising citizens' awareness and their understanding of e-Government, so as to provide a greater involvement of citizens and entrepreneurs in using electronic services, as well as to clarify and present the factors of influence on:

- *Perceived risk* – the fear of losing personal information and the fear of surveillance on the Internet. Perceived risk is negatively connected to the acceptance of e-Government;
- *Perceived usefulness* – it is defined as an adaptability of the system to the user and the existence of utility functions of the system; and
- *Perceived ease of use* – the system that can be easily used, especially by the individuals who don't have a great deal of experience in working with the computer (Warkentin et al., 2002).

In the purpose of achieving the goal, we shall represent the project of the electronic service “*The replacement of old (paper) driver's license for a new photocard license*“, which is a complete e-Government solution in the Republic of Serbia.

INDICATORS FOR ASSESSING THE STATUS OF E-GOVERNMENT

The European Commission (Wauters and colleagues, 2007) defined four indicators that can be used to evaluate the status of e-Government, and they are:

- Sophistication of services;
- Full online availability of the services;
- Orientation of service to user and
- National portal.

SOPHISTICATION OF SERVICE

This term defines the quality of services available to the citizens or legal entities via Internet. A general scale of sophistication was defined in order to be the basic measure of quality. It illustrates different level of sophistication of public services, ranging from the basic one that offers nothing but mere information to the maximum level which offers a complete electronic processing of data and proactive delivery of service to the users.

General scale of sophistication has the following levels:

- *Level 1* – “*information*” implies the existence of online information necessary for the launching of the procedure for using public service;
- *Level 2* – “*one-way interaction*” implies the possibility of downloading data and forms necessary to start off non-electronic procedure for using the service;
- *Level 3* – “*two-way interaction*” is a possibility when we talk about services that offer engagement through electronic forms in order to initiate the procedure for using the given service;
- *Level 4* can be applied to most of the services – “*transaction*” implies that the service is completely available to the users via Internet (including decision making and delivery);
- *Level 5* – “*personalization*” implies proactive delivery of service to the users, that is shifting the initiative for using the service from users to service providers;
- There is also *level 0* which is assigned in situation when the institutions that provide the service don't have a web page, or when the existing pages cannot be classified under any of the aforementioned levels.

Evaluation of service sophistication is obtained as a ratio between the currently allocated and the maximum level on a scale of sophistication. It is expressed in a percentage value for each service, while at the national level the average value for twenty services is observed.

FULL ONLINE AVAILABILITY

This term represents how much the Internet technologies replace other types of communication while using public services of e-Government. A certain service can reach full online availability via Internet page if there is no need for any other formal procedure (personal or written communication) in order to use the service. That means that at the scale of sophistication, the service has to be at level 4 or higher. Otherwise, full online availability for the service doesn't exist. Full online availability on a national level is obtained as the ratio between the number of services that have full online availability in relation to the total number of services, expressed in percentages.

Since 2007, two new indicators of e-Government status have been applied: orientation of services towards users and the national portal. These indicators are oriented towards evaluating convenience and safety of using e-Government.

Orientation of service towards users

The status of e-Government is evaluated from four different aspects:

- Safeness of users' personal information while using the service;
- Users' comfort;
- The possibility of a multi-channel approach to the service;
- The availability of the service to all users without personal privileges.

NATIONAL PORTAL

National portal is the indicator that should point out the level of integration of services and their consistency. Basic role of the national portal in e-Government is to provide users with a unique access point to all public services, which implies the implementation of the following characteristics (Gant, Gant, 2002): safeness of information, access to data, transaction, searching and navigating the contents, dynamic contents and personalization.

UNPACS indicator for evaluating the status of e-Government refers to the readiness of e-Government and it focuses on the services that are primarily citizens-oriented.

E-readiness is a measure of:

- The quality of information and communication infrastructure of the country and
- The ability of citizens, business entities and administrative bodies to use its advantages.

The concept of measuring this indicator is based on an overall review of development, including human capacity, infrastructure development and access to information.

EGDI (E-Government Development Index) is a composite indicator and it measures three dimension of e-Government:

- Online services (Web index);
- Telecommunications network and
- Human capital.

ONLINE SERVICES – WEB INDEX (WEB MEASURE INDEX)

Web index is based on a five-stage model of e-Government (presence in its infancy, strong presence, interaction, transaction and integration) and it reflects the sophistication of online governance presence. As the Governance of a certain state reaches certain stages, it also climbs on the scale of this index. Online presence of every country is measured by the availability of services and the quality of information on web sites of Ministries of health, education, social affairs, work and finances; because it is considered that these are the authorities the citizens mostly turn to. Web index provides the countries with a comparative analysis of their abilities to deliver public services to their citizens.

TELECOMMUNICATION NETWORK – (TELECOMMUNICATION INFRASTRUCTURE INDEX)

Telecommunication infrastructure index is a composite index consisting of five primary indicators related to the services of e-Government (per 100 residents): number of Internet users, number of PCs, number of phone lines, number of mobile phones and number of broadband connections.

Each of these five indicators represents one fifth of the overall infrastructure index. The source of information in this area is the International Telecommunication Union (ITU).

HUMAN CAPITAL – HUMAN CAPITAL INDEX

Human capital index is also a composite indicator and it consists of adult literacy indicator and a combined primary, secondary and tertiary coefficient of enrollment in schools.

THE ANALYSIS OF THE DEVELOPMENT OF E-GOVERNMENT SERVICES IN SERBIA

In recent years, Serbia has made progress in the development of e-government, but compared to other European countries Serbia is lagging far behind. We can see that in the results provided by the e-government development index, the representation of e-government services and the evaluation of the functioning of state governance which are given in this paper.

E-GOVERNMENT DEVELOPMENT INDEX

The last United Nations' UNPACS study has shown that Serbia has taken 69th place out of 193 countries, according to the e-government development index. Figure 2 shows the development index for Serbia and the surrounding countries.

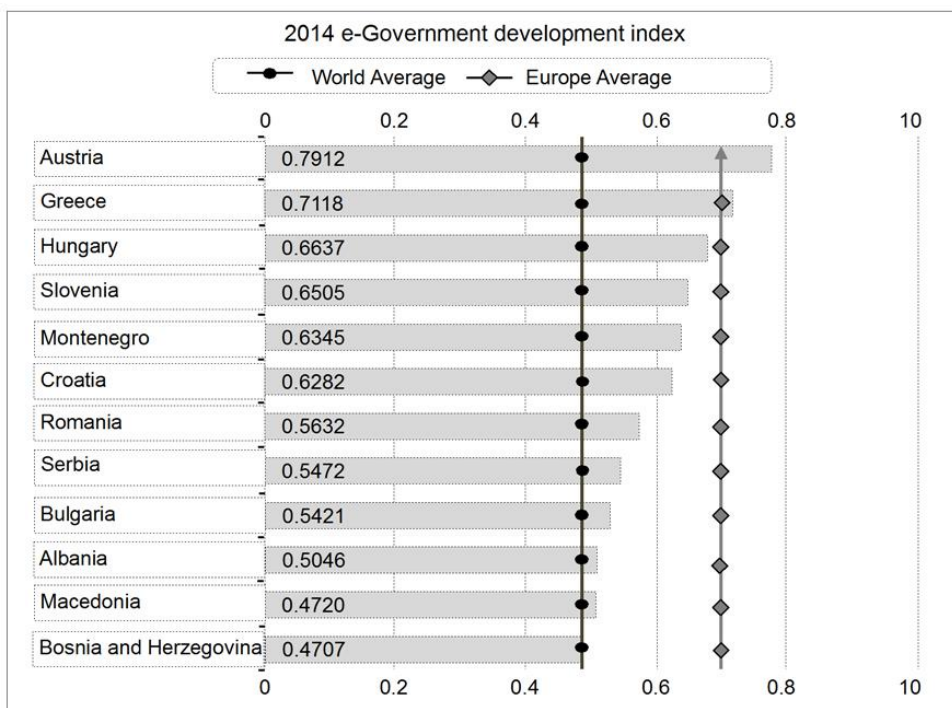


Figure 2: E-government development index for Serbia and the surrounding countries for the year 2014.

Source: <http://unpan3.un.org/egovkb/Data-Center>

Out of surrounding states, Austria takes the first place and Bosnia and Herzegovina the last place concerning e-government development index.

REPRESENTATION OF E-GOVERNMENT SERVICES

When we talk about the statistics that concerns representation of e-government services in world frameworks, the data show that the index of e-presence is 0,4118 which implies place number 81 out of 193 countries. Figure 3 shows the presence index for our country and the surrounding countries.

Country	Rank 2014	EPART 2014
Greece	17	0,8039
Austria	40	0,6275
Montenegro	49	0,5882
Albania	59	0,5294
Romania	71	0,4706
Hungary	75	0,4510
Serbia	81	0,4118
Slovenia	84	0,3922
Croatia	94	0,3333
Bulgaria	122	0,2549
Bosnia and Herzegovina	129	0,2353
Macedonia	134	0,2157

Figure 3: Index of presence for 2014.

Source: Data-Center: <http://unpan3.un.org/egovkb/UNPAN>

ASSESSMENT OF THE STATE GOVERNANCE FUNCTIONING

Serbia has recently joined the European project “Coordinating for Cohesion in the Public Sector of the *Future*” (COCOPS), which is at the European level financed by the European Commission. This project is thriving to evaluate on a comparative and quantitative level the influence of the public sector reform in European countries, relying on the experience of the experts from the public sector of thirteen different countries (Hammerschmid and colleagues 2013). The report “Context of public governance and reforms in Serbia” shows the results of a survey conducted among 1349 senior managers of state governance in Serbia, within the COCOPS project. The study shows that the great state governance reform is yet to come.

By using the data from the report on state governance reforms in Serbia, today's reforms have been characterized as partial and unsuccessful. Interviewees of this survey underline, among other things, the poor level of clarity of goal in their own organizations. 18,5% of interviewees think that the functioning of state government authorities has improved, 62,4% say there is no major difference, and 19,1% think that the situation is worse.

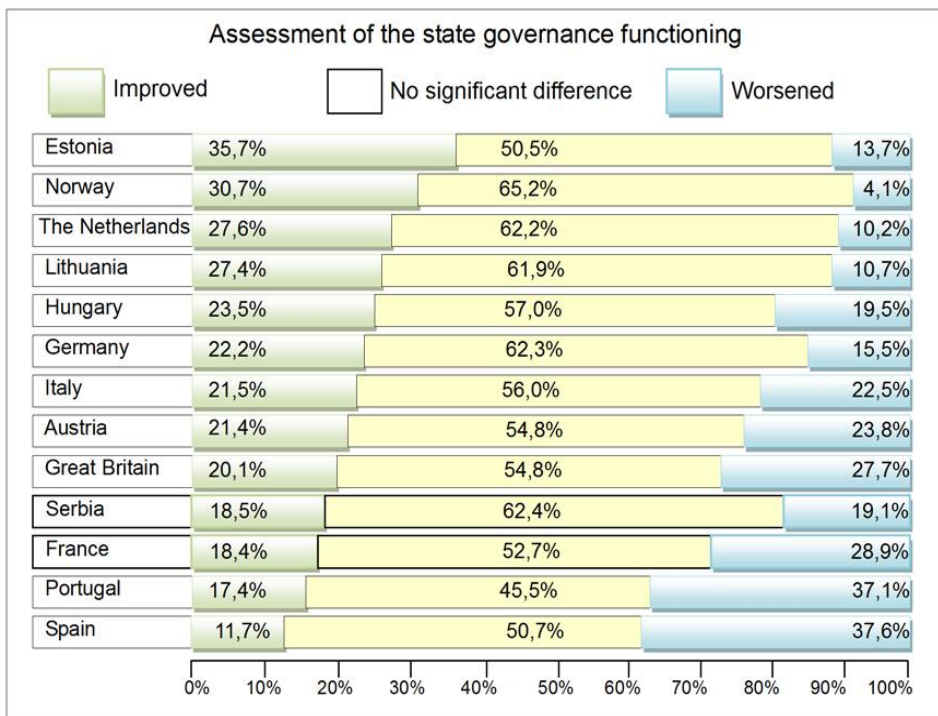


Figure 4: Interviewees' personal assessment on the functioning of state governance

Source: COCOPS 2013

KEY ELEMENTS FOR USING E-SERVICES

Use of e-services is in immediate connection with the development of:

- Infrastructure;
- Citizens' digital skills and
- Education.

THE DEVELOPMENT OF INFRASTRUCTURE

For the purpose of this research, the data from the Republic Bureau of Statistics were used and analyzed. The Bureau carried out a research on the territory of the Republic of Serbia, concerning the use of information and communication technologies in Serbian households for the year 2014. Impressively, 2400 households were included in this research. The response rate is 96% (2312 households).

The results used in this paper will refer to:

- Analysis of owning a computer, the Internet and Broadband connection in households;
- Frequency of the use of computers and the Internet.

Table 1: The use of IC technologies in households

Year	Owning a computer	Owning internet connection	Owning broadband internet connection
1	2	3	4
2010	50,4	39,0	27,6
2011	52,1	41,2	31,0
2012	55,2	47,5	38,0
2013	59,9	55,8	43,3
2014	63,2	62,8	55,1

Source: Adapted (Republic Bureau of Statistics 2015.)

Table 2: Frequency of computer and internet usage

Period if use	Frequency of computer use	Frequency of internet use
1	2	3
Never used	29,7	33,1
Used in the last three months	62,5	62,1
Started over a year ago	6,0	2,9

Source: Adapted (Republic Bureau of Statistics 2015)

By analyzing the data in table 1 and 2, it can be concluded that:

- 36,8% of households don't own a computer,
- 37,2% of households don't have internet connection,
- 55,1% of households own a broadband internet connection,
- 29,7% of individuals have never used a computer,
- 33,1% individuals have never used the Internet.

DIGITAL DIVIDE AND DIGITAL LITERACY OF CITIZENS

Digital divide signifies the gap between the ones that use and the ones that don't use advantages of new technology, both on global level and within individual states (Norris, 2001; Wilson et al., 2005; Rose, 2005).

The concept primarily refers to the question of access to ICT, but also to the possibility of its use if the access is ensured in some way. There are two different aspects of digital divide in literature (Attewell, 2001 pp, 252-259).

1. *st digital divide* - it refers to different possibilities of accessing the Internet, which is primarily the function of socio-economic development and technologic infrastructure.

The use of computers and the Internet is extremely uneven, so there is a gap between urban and rural population, between those with higher and lower educational background, as well as between households with higher and lower incomes.

However, the gap between the rich and the poor is still vast, and around 33% of those who don't have internet access said that it was too expensive.

Comparing to 2013, prevalence of broadband internet connection that ensures quicker and cheaper flow of information has increased for 11,8%. In 2014, share of this kind of internet connection was 55,1%. However, 84% of households with the income over 600 euros a month have broadband connection, and also 35,7% of households with the income over 300 euros a month.

Majority (61,3%) of those who don't have internet access at home says they don't need it. However, a great percent of interviewees say the reason is money. 37,9% say that the equipment is expensive, 34,8% say that internet access is too expensive.

2. *nd digital divide is* caused by different possibilities of using the Internet, which is primarily connected to:

- Educational status;
- Personal motivation.

ACTIVITIES TO REDUCE DIGITAL DIVIDE

Activities to reduce digital divide are focused on improving the technological base:

- Access to broadband Internet, and
- Increase users' capacity in terms of citizens' education.

Broadband internet connection enables quick access to all interested parties, at affordable prices via broadband access technology (DSL / ISDN / Cable) or broadband access via wireless technology or satellite connections. It entirely changes the way we use the Internet by enabling us to download information from the Internet in a much quicker way than by using traditional dial-up connection. It represents one of the basic indicators of the development of ICT use in the European Union.

Special attention should be dedicated to infrastructure. Increase the number of internet users, computers and broadband connections.

Further liberalization of the telecommunications would help to reduce the cost of services, build more broadband connections, and thus, increase the use of Internet and its services.

The above-mentioned results of the use of computers and the Internet directly affect the level and the possibility of using the services offered by electronic government in Serbia.

Table 3: Public Administration – Statistics by age and gender

MODULE 1. E: Public Governance								
Response	Age						Gender	
	16 - 24	25 - 34	35 - 44	45 - 54	55 - 64	65 - 74	male	female
E1: For which of the following services of the public governance are you								
Gain infor. from web sites of public institutions	25,7	41,4	38,3	37,6	40,0	20,4	35,3	36,9
Download of important forms	13,2	26,1	21,8	20,4	22,8	10,3	20,7	20,6
Send filled in forms	5,6	19,4	12,5	12,7	16,7	7,4	13,1	13,2
E2: What are the reasons for not sending filled in forms to public administration								
There was no need for sending filled in forms	95,5	98,3	91,9	84,1	88,8	77,8	91,3	90,9
Services are not available on web sites	0,0	0,6	2,0	1,5	0,0	0,0	0,6	1,1
Lack of skills	3,1	0,0	3,2	6,9	9,1	16,3	3,6	4,7
Safety and protection of personal information	0,6	0,6	2,0	1,0	2,6	1,2	1,1	1,3
Lack of electronic signature or identification	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0
Somebody else did that for me	0,8	0,0	0,7	3,2	1,4	1,7	1,4	1,9
Other reasons	0,0	0,5	0,3	4,0	0,9	3,0	1,6	0,6

Source: Adapted – Republic Bureau of Statistics 2015

- Use of information from web sites of public institutions, downloading forms, sending filled in forms – services mostly used by those between ages 25 to 34
- Lack of skills – age structure between ages 55 to 74
- Safety and protection of information mostly concerns population between ages 55 to 64

EDUCATION AND WORKING STATUS

Based on the structure of employees, and first of all by observing professional and age structure, we inevitably came to the conclusion that there was a need for constant training of employees in all the countries that participated in this research. An important place in that framework has a permanent education and training in the purpose of credentialism. The focus of investments in the future will be on activities which are based on knowledge (Medić, Živadinović, 2014, pp. 118-140) and that consume less energy. In the time ahead of us, learning becomes a personal responsibility. In order to have good management, we need to have skilled employees both on local and state level. This refers to the expertise of government officials (Chen et al., and others, pp 750).

Research shows that 53,0% of interviewees from university or higher educational background use the Internet in order to gain information from web sites, and only 14,5% of interviewees with lower or secondary education use this same service. Research also shows that 3,1% of those with university or higher education are concerned about the safety and protection of their personal information, while the ones with lower or secondary education don't have that concern.

By constantly carrying out conferences in Serbian cities and municipalities and with the financial help of Organization for Security and Co-operation in Europe (OSCE), a project called "e-Training, good Management and gender equality" has been conducted. Within this project, an online training (distance learning) "Good Management in Cities and Municipalities" will be realized. The aim of this electronic training is to enable the users to better understand the functioning process of a modern, good management and to introduce them to the basic standards of impartiality, objectivity and responsibility in the work of local self-government.

Table 4: Analysis of e-Government – use of the Internet

In percentages									(e – government) ¹								
Responses	Education			Working status				Total									
	Lower than high school	high school	University and higher education	employed	unemployed	student	others										
Used the Internet in the last three months (multiple answers)																	
Gain infor. from web sites of public institutions	14,5	34,6	53,8	41,5	31,5	35,9	27,2	36,0									
Download important forms	5,5	18,6	35,7	25,1	16,3	19,8	15,7	20,6									
Send filled in forms	4,4	10,3	26,2	16,8	10,3	9,6	9,1	13,1									
Administration via Internet in the last 12 months																	
There was no need for sending filled in forms	95,3	93,0	84,6	92,9	92,0	96,2	86,3	92,0									
Services are not available on web sites	0,0	0,3	3,7	0,8	1,0	0,0	1,2	0,8									
Lack of skills	2,7	4,4	5,0	2,8	4,7	2,2	8,3	4,1									
Safety and protection of personal information	0,0	1,1	3,1	0,9	1,4	1,6	1,1	1,2									
Lack of electronic signature or identification	0,0	0,0	0,0	0,0	0,0	0,0	0,0	0,0									
Somebody else did that for me	0,9	1,0	1,8	1,5	0,2	0,0	3,0	1,1									
Other reasons	1,1	0,9	1,9	1,2	1,2	0,0	1,3	1,1									

Source: Adapted – Republic Bureau of Statistics 2015.

PRACTICAL PRESENTATION OF THE ELECTRONIC SERVICE “THE REPLACEMENT OF OLD PAPER DRIVER’S LICENSE WITH THE NEW PHOTOCARD LICENSE”

In order to reach the ultimate goal of this paper in this section we shall represent the practical use of electronic service and the project of the Ministry of Internal Affairs named “The replacement of old paper driver’s license for the new photocard one” which provides:

Perceived ease of use that can be observed through:

- Easiness of use through clear instructions, especially for the individuals who don’t have a great deal of experience in working with computers;
- Possibility for the citizens to satisfy their needs by submitting request from one place (internet portal of e-government) regardless of the number of different authorities involved in processing the applications.

Perceived usefulness that enables to:

- reduce the number of arrivals of citizens at the counters of the Ministry of Internal Affairs, through a controlled process that allows you to simplify and automate the execution of services, and
- carry out legal obligations by the citizens,
- pay the taxes by using one unified slip, online via portal or e-banking,
- provide services at any time, regardless of working hours of the authorities involved in servicing customers,
- avoid waiting in queues,
- follow the lifecycle of demands,
- transfer the burden of obtaining data from public records from the citizens to the government.

Perceived risk or the fear from losing personal information and surveillance on the Internet can be eliminated by using:

- photo from the ID card with a chip as biometrical data, used for making driver’s license
- PIN number - obtained in a protected envelope when picking up one’s ID card with a chip

Biometrical photo and PIN number enable safe authentication when using the information system of the Ministry of Internal Affairs and the manner of accessing the Portal.

Project “The replacement of old paper driver’s license with the new photocard one” which is represented as a part of the good practice system, had for a goal to automate the process of replacing the old driver’s license with the new one. The project has been successfully functioning since 2014 and it represents joint work of:

- Ministry of State Administration and Local Self-Government (Directorate for Electronic Government);
- Ministry of Internal Affairs and
- Ministry of Finances (Treasury Administration)

Ministry of Internal Affairs is one of the first state authorities that has started to generate e-Services on e-Portal. It has a great share and it represents a positive example of the approaching of Serbia to the concept of e-State by launching IT projects of utmost importance from the area of e-Government.

By analyzing preconditions for the realization of the project in question, it was established that the conditions to realize the project as e-Government solution exist, because all conditions related to the existence of electronic records, national registers and communication connection of the subjects had been fulfilled.

The project was realized by using a conceptual model of public services, and in accordance with the national interoperability framework.

PROJECT FUNCTIONING

This project represents a promotion of the existing functionalities of the Portal and an upgrading of the Portal by new functionalities concerning implementation of advanced electronic services, and it provides conditions for the integration of the Portal with the MIA system that announces the service.

Electronic service is available to the citizens via national Portal of e-Government (www.eUprava.gov.rs). In accordance with their legal powers The Ministry of Internal Affairs keeps the register of drivers in its electronic database.

E-Service “The replacement of the old paper driver’s license with the new photocard license” can be used by the citizens who own:

- Card reader;
- ID card with a chip and the agreement that the photography, as a biometrical data, which was used in the making of ID card, can be used in the making of driver’s license;
- PIN number gained in a secured envelope when picking up the ID card with a chip.

LAUNCHING OF THE SERVICE

Steps while launching these services are:

- Citizen is authenticated with ID card with a chip;
- Essential data set can be taken from the chip;
- User selects categories for which he/she has a driver's license (A, B, C, D and E);

- By clicking onto the next step the necessary data from the ID card together with the selected categories are forwarded via web service to the MIA information system.

After necessary checks in the MIA, they reply whether or not it is possible to submit an electronic request via the Portal. The additional information one can gain are:

- name of the police station where new license can be taken and
- driver's residence municipality

If the answer is positive the next page will show:

- minimal set of data from the ID card,
- categories and parameters for the total payment of fees, charges and costs,
- payment of fees, charges and costs.

TAX PAYMENT

Considering that this electronic service demands payment of certain taxes, charges and costs, through this electronic service a unique payment slip will be generated. Payment can be done:

- online via the Portal, by using e-banking if one has an account,
- by a universal slip at any bank.

In the next step via web service, the collected data and the given statements are forwarded to the MIA which treats this data as a request on-hold while the system doesn't register, with the help of the Treasury Administration, that the tax payments were completed.

CASE PROCESSING

Within the set time frame the Information system of the MIA calls a web service of e-payment in order to receive the information for what cases payments are recorded. Upon receiving information that all fees are paid, request of IS standby status in which it was when accepted by the e-government portal is activated and the object then enters the processing.

In that moment the applicant gains information that his/her request is being processed. At the time when a new driving license is personalized and delivered to the appropriate police station, the information system of the MIA sends the information via web service of the Portal that the user can pick up his/her permit. This information is also momentarily available to the applicant.

By applying this transparency mechanism, governance services carried out on the principles of e-Government are proved to be cost effective and convenient means for promoting a candid relationship between the MIA and the citizens.

DISCUSSION AND CONCLUSIONS

One of the special goals of the Strategy reform of public governance in the Republic of Serbia is strengthening the transparency, ethics and the sense of responsibility in conducting public governance business. The role of e-Government is to be a catalyst and moderator in ensuring more efficient and responsible public services and to offer a platform for providing electronic services in order to innovate new solutions and services together with the citizens and other users. By applying the ICT, which are adjusted to the needs of the citizens and economy and are integrated on all levels of public sector, the concept of e-Government foresees interactive electronic services.

With this research we have tried to look at the:

1. Factors that affect the development of e-Government considering the overall context of the public governance reform in Serbia (key issues, challenges and the achievements made in the field of introduction of e-government)
2. Reasons why the citizens don't sufficiently use the existing services of e-Government (70,37% of interviewees don't use e-services)

From the standpoint of the data analyzed in this paper, e-government is not on the level form which it can fully replace the direct or written interaction between citizens and state authorities. In the past years, Serbia has advanced in the development of e-Government, but in relation to other European countries it has been lagging behind. That can be seen in the analysis of the results given by the e-government development index (69th place), representation of e-Government services (81st place) and the assessment of state governance functioning (62,4% of interviewees think there are no significant improvements and 19,1% think that the situation got worse)

It can be concluded that Serbia is on track to achieve all phases of the development, but attention should be paid to:

- *The development of infrastructure* (36,8% of households don't own a computer, 37,2% of households don't have internet connection and only 55,1% have broadband internet connection)
- *Education of employees in e-Government* - based on the structure of employees, and primarily by observing professional and age structure, it is inevitable that there is a need for constant training of employees. OSCE Mission in Serbia is implementing a project of online training "e-Training Good Governance and Gender Equality" in order to provide a better understanding of the process of the modern Governance functioning and

introduction to the basic standards of impartiality, objectivity and accountability in the work of local government;

- *Overcoming digital divide* - use of the Internet and computers is very uneven, and there is a gap between the urban and rural population, highly educated and those with lower education background, as well as between households with higher and lower incomes. 61.3% don't have Internet access at home, and many of them cited money as the main reason. Even 37.9% of respondents said that the equipment was expensive, and 34.8% said that having internet connection was too expensive;
- *Raising the level of digital literacy of citizens – by promoting education and personal motivation*. 29.7% of respondents have never used the computer, 33.1% have never used the Internet.

Politics of e-Government should focus on increasing motivational factors for the citizens in order to use e-services more:

- On the lowest level, politics of e-Government should focus on introducing those services that the citizens suggest, not only on the services offered by state authorities;
- Promotion of the safety aspect and privacy protection. That implies parallel activities on establishing suitable levels of security and safety on the Internet so as to establish mutual trust and to support electronic interaction between users and Governance and within Governance itself.
- Education of public on the advantages of e-Government.

For more efficient Government work, better promotion of e-services and for raising citizens' awareness about the use of aforementioned services, it is necessary to:

- Ensure and monitor feedback from the public that can be integrated and provide significant benefits in an effort to increase the politics of using e-Service;
- Monitor and analyze trends about the use of the portal
- Educate the media to be ready to activate and reinforce the campaign to promote and raise awareness about the use of e-Services.

Example of good practice and full e-government solution, in the Republic of Serbia, the paper presents the project "The replacement of old (paper) driver's license for the new photocard license", which links three branches of e-Government - government authorities, business entities and citizens.

Research in this paper can be used for further analysis and improvement of the work of e-government.

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