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市场监管总局发布《经营者反垄断合规指南》

2020年9月18日，国家市场监督管理总局（“市场监管总局”）发布《经营者反垄断合规指南》（“《指南》”）。《指南》包含总则、合规管理制度、合规风险重点、合规风险管理、合规管理保障、附则等6章共计30条内容。其中，合规风险重点一章包括禁止达成垄断协议、禁止滥用市场支配地位、依法实施经营者集中、经营者的法律责任、承诺制度、宽大制度、配合调查义务和境外风险提示。《指南》仅对经营者反垄断合规作出一般性指引，不具有强制性。（[查看更多](#)）

SAMR Releases Antitrust Compliance Guidelines for Undertakings

On September 18, 2020, China's State Administration for Market Regulation ("SAMR") released the *Antitrust Compliance Guidelines for Undertakings* ("Guidelines"). The Guidelines contains 30 articles, 6 chapters, including (i) General Rules, (ii) Compliance Management System, (iii) Key Compliance Risks, (iv) Compliance Risk Management, (v) Compliance Management Maintenance, and (vi) Supplementary Provisions. Key Compliance Risks identified include monopolistic agreements, abusing dominance, gun-jumping, commitment system, leniency system, obligations of cooperating with the investigation and reminder of overseas risk. The Guidelines provide only general guidance for undertakings in terms of antitrust compliance and is not mandatory. ([More](#))

最高院远程审理并在线直播四川宜宾砖瓦行业垄断协议上诉案

2020年9月17日，中国庭审公开网显示，最高人民法院知识产权法庭远程审理并在线直播了四川宜宾砖瓦行业垄断协议上诉案，对五起相关案件进行了合并审理。庭审视频链接为：<http://tingshen.court.gov.cn/search/common?keywords=%E5%9E%84%E6%96%AD&pageNumber=1&pageSize=15&extType=>。原四川省工商行政管理局曾于2013年7月29日公布了对宜宾市砖瓦协会涉嫌组织本行业经营者从事垄断协议行为的行政处罚决定。（[查看更多](#)）

IP Court of SPC Jointly Hears Online Five Antitrust Appeal Cases Concerning Sichuan Yibin Brick and Tile Industry

On September 17, 2020, according to a notice published on tingshen.court.gov.cn, the Intellectual Property Court of the Supreme People's Court ("IP Court of SPC") jointly heard five antitrust appeal cases concerning Sichuan Yibin brick and tile industry. The trial video link is: <http://tingshen.court.gov.cn/search/common?keywords=%E5%9E%84%E6%96%AD&pageNumber=1&pageSize=15&extType=>. Previously on July 29, 2013, the former State Administration for Industry and Commerce issued the sanction decision against the Yibin Brick and Tile Association suspected of organizing operators in the industry to reach the monopoly agreement. ([More](#))

诉音集协滥用支配地位，家乐迪酒店诉讼请求一审遭驳回

近日，北京知识产权法院就梅州市家乐迪酒店有限公司（“家乐迪酒店”）与中国音像著作权集体管理协会（“音集协”）捆绑交易纠纷案作出一审判决，驳回家乐迪酒店的全部诉讼请

求。法院经审理认为，音集协在本案涉及的相关市场内具有市场支配地位，但是家乐迪酒店提供的证据不足以证明家乐迪酒店实施了限定交易、附加不合理的交易条件等滥用市场支配地位的行为。（[查看更多](#)）

BIPC Rules CAVCA Did Not Abuse Dominance

Recently, the Beijing Intellectual Property Court (“BIPC”) issued a trial judgment on alleged bundling case between Meizhou Jialedi Hotel Co., Ltd. (“Jialedi Hotel”) and China Audio-Video Copyright Association (“CAVCA”) and rejected Jialedi Hotel’s claims. The BIPC held that the CAVCA had market dominance in the relevant market, but Jialedi Hotel failed to provide sufficient evidence to prove that Jialedi Hotel abused its dominance by restricting transactions and adding unreasonable transaction conditions. ([More](#))

海外动态 Overseas News

美国联邦贸易委员会将扩展《并购追溯计划》

2020年9月17日，美国联邦贸易委员会发布新闻称，其下辖的经济局已宣布修改《并购追溯计划》（Merger Retrospective Program）。并购追溯分析旨在确定已完成并购是否在一个或者多个相关市场上影响了竞争，该分析量化了并购完成后的市场结构变化，以及由此导致的市场产出变化，包括价格、产品多样性、质量、创新、消费者福利等。《并购追溯计划》提出了提供关于近期追溯研究相关经验的年度报告、评估可能被用于筛选和评价并购竞争影响的工具等诸多新举措。（[查看更多](#)）

FTC to Expand Merger Retrospective Program

On September 17, 2020, the Federal Trade Commission (“FTC”) stated that its Bureau of Economics has announced a revamped *Merger Retrospective Program* (“Program”). The merger retrospective analysis seeks to determine whether a merger has affected competition in one or more of the markets impacted by the merger. The analysis quantifies changes in market outcomes, such as prices, product variety, quality, innovation, consumer welfare, etc., after changes in market structure that result from consummated mergers. The Program involves providing an annual report on the lessons from recent retrospective studies, evaluating the tools which may be used to screen and assess the competitive effects of mergers and other new initiatives. ([More](#))

不服构成拒绝交易和搭售判决，康卡斯特上诉至美国最高法院

2020年9月15日，据彭博社报道，康卡斯特（Comcast）已向美国最高法院提起上诉，主张联邦第七巡回上诉法院错误认定其拒绝与跨媒体广告提供商Viamedia交易违反反垄断法。此前，Viamedia起诉康卡斯特利用其在“互联设施”（一种关于发布电视广告的区域性信息交换设施）支配地位的传导效应，抵制与 Viamedia的交易。康卡斯特拒绝Viamedia使用上述互联设施，并采取搭售策略和直接拒绝交易使得Viamedia被排挤出地域市场。（[查看更多](#)）

Comcast Appeals to US Supreme Court Against Ruling of Antimonopoly Law Violations

On September 15, 2020, the *Bloomberg* reported that Comcast appealed to the United States Supreme Court and claimed that the Court of Appeals for the Seventh Circuit improperly ruled that Comcast violated the antimonopoly law by refusing to do business with Viamedia. Previously, Viamedia accused Comcast of leveraging its control over its “interconnect” (a regional clearinghouse for TV advertising availabilities) to force a boycott of Viamedia, and also claimed that Comcast refused to let Viamedia use the interconnect at all and adopted the tying tactic and outright refusal to deal to drive Viamedia out of regional markets. ([More](#))

美国法院驳回大陆汽车集团对高通公司等电信专利所有者的反垄断诉讼

2020年9月13日，据彭博社报道，美国德克萨斯州北区联邦地区法院裁定，为戴姆勒汽车集团生产控制元件的大陆汽车集团（Continental AG）不得对高通公司等专利所有者提起反垄断诉讼，这些专利所有者正寻求电信技术方面的专利使用费。该法院认定，专利许可池公司Avanci（由高通、诺基亚等技术标准专利所有者组成）与汽车制造商而非零部件制造商进行许可协议谈判，并未违反反垄断法。专利所有者可以利用这种所谓“价格歧视”的形式最大化专利价值。

([查看更多](#))

US Court Dismisses Antitrust Claims Against Qualcomm and Other Patent Owners

On September 13, 2020, the *Bloomberg* reported that the United States District Court for the Northern District of Texas ruled that Continental AG, which makes control units for Daimler AG cars, cannot pursue antitrust claims against Qualcomm and other patent owners that are seeking royalties on telecommunications technology. The Court held that Avanci, a licensing pool formed by Qualcomm, Nokia and other owners of patents on technology standards, does not violate antimonopoly laws when it negotiates license agreements with automakers rather than the component makers. A patent owner may use price discrimination to maximize the patent’s value. ([More](#))

立方律师事务所编写《立方观评》的目的仅为帮助客户及时了解中国法律及实务的最新动态和发展，上述有关信息不应被看作是特定事务的法律意见或法律依据，上述内容仅供参考。



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 www.lifanglaw.com
 Email: info@lifanglaw.com

 Tel: +8610 64096099
 Fax: +8610 64096260/64096261