



# NEWSLETTER

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2021.02

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## 国内要闻 Domestic News

### “原料药换股权”，市场监管总局对先声药业开出1.007亿元反垄断罚单

2021年1月29日，国家市场监督管理总局（“市场监管总局”）公布了对先声药业集团有限公司（“先声药业”）滥用市场支配地位案的处罚决定，对先声药业处以2019年度销售额2%的罚款，计1.007亿元。市场监管总局调查发现，先声药业在中国巴曲酶原料药销售市场具有支配地位，在下游制剂企业与其商谈时，将巴曲酶原料药的供应作为股权谈判的一部分，不单独销售巴曲酶原料药，构成滥用市场支配地位没有正当理由拒绝与交易相对人进行交易的行为，排除了市场竞争，损害了消费者利益。（[查看更多](#)）

### SAMR Fines Sincere CNY 100.7m for Refusal to Supply Batroxobin API

On January 29, 2021, China's State Administration for Market Regulation (“SAMR”) announced that it has fined Sincere Pharmaceutical Group Ltd. (“Sincere”) CNY 100.7 million (accounting for 2% of Sincere's 2019 sales) for abusing its dominant market position. According to SAMR's investigation, Sincere holds a dominant position in batroxobin active pharmaceutical ingredient (“API”) sales market in China. When negotiating with one and the only batroxobin preparation company in china, Sincere attempted to acquire the downstream company's share and refused to sell batroxobin API separately. As a result, SAMR found this behavior to be an abuse of dominance without justified reasons to refuse to trade with the counterparty which excludes market competition and harms the consumers' welfare. ([More](#))

### 5起垄断协议案集中公布，4协会、47家企业合计遭罚1700余万元

2021年1月29日，市场监管总局集中公布了上海、安徽、海南、江苏、浙江五省市市场监督管理局查处的5起垄断协议案的行政处罚决定书，对涉案4家行业协会、47家企业合计罚款及没收违法所得1700余万元，涉及旅游客运、保险、消防安全技术检测、机动车驾驶员培训、二手车交易市场等领域。此外，另有一涉案企业因“上一年度无销售额”及一涉案企业因适用宽大制度而未被处罚。（[查看更多](#)）

### SAMR Publishes 5 Cartel Cases, 4 Associations and 47 Companies Fined over CNY 17m

On January 29, 2021, SAMR published dozens of penalty decisions in 5 horizontal monopoly agreement cases which were investigated by its provincial branches in Shanghai, Anhui, Hainan, Jiangsu and Zhejiang. 4 associations and 47 companies involved were fined and confiscated of illegal income for more than CNY 17 million. The cases involve different fields, including tourism transportation, insurance, fire safety technology testing, motor vehicle driver training and second-hand car trading market. In addition, two companies did not receive punishment. One did not have “sales revenue in the previous year” and the other applied the leniency system due to cooperation with the investigation. ([More](#))

### 华发物业与仲量联行设立合营企业未依法申报，合计被罚70万元

2021年1月29日，市场监管总局公布了珠海华发物业管理服务有限公司（“华发物业”）与北京仲量联行物业管理服务有限公司（“仲量联行”）设立合营企业珠海华发仲量联行物业服务有

限公司未依法申报违法实施经营者集中案的处罚决定，对华发物业和仲量联行各处35万元罚款。该起交易达到了经营者集中申报标准但未依法进行申报。 ([查看更多](#))

### **SAMR Fines Huafa Property and JLL CNY 350,000 Each for Gun-jumping**

On January 29, 2021, SAMR announced that it has fined Zhuhai Huafa Property Management Service Co., Ltd. (“**Huafa Property**”) and Beijing Jones Lang LaSalle Property Management Service Co., Ltd. (“**JLL**”) CNY 350,000 each for failure to notify the establishment of their joint venture, Zhuhai Huafa Jones Lang LaSalle Property Service Co., Ltd. The transaction met the filing thresholds but Huafa Property and JLL failed to fulfil their legal obligation by failing to notify the transaction. ([More](#))

### **《反垄断工作补助经费管理暂行办法》出台，强化升级反垄断执法激励保障**

2021年1月28日，财政部和市场监管总局发布了《反垄断工作补助经费管理暂行办法》（“《办法》”）。根据《办法》，反垄断工作补助经费是指中央财政通过转移支付安排，用于省级政府市场监管部门根据市场监管总局授权开展反垄断执法的补助经费，主要用于与市场监管总局授权开展的反垄断执法直接相关的支出，包括：办公费、印刷费、会议费、委托业务费、差旅费、培训费、交通费、劳务费以及必要的执法装备购置等。 ([查看更多](#))

### **New Subsidies Rules to Stimulate China’s Provincial Antitrust Enforcement**

On January 28, 2021, the Ministry of Finance and SAMR jointly issued the *Interim Measures for the Administration of Subsidies for Antitrust Work* (“**Measures**”). According to the Measures, subsidies for antitrust enforcement are subsidies that are used to help provincial market regulators to carry out antitrust enforcement under the authorization of SAMR. The subsidies are mainly provided through transfer payment and are used to cover the expenses that are directly related to the antitrust enforcement, including expenses of office, printing, meeting, commissioned business, travel, training, transportation, labor services and purchase of necessary law enforcement equipment. ([More](#))

### **新疆雪峰收购玉象胡杨股权未依法申报，遭市场监管总局罚款30万元**

2021年1月28日，市场监管总局公布了对雪峰投资控股有限责任公司（“新疆雪峰”）收购新疆玉象胡杨化工有限公司（“玉象胡杨”）股权未依法申报实施经营者集中案的处罚决定，对新疆雪峰处以30万元罚款。调查发现，2018年6月至11月，新疆雪峰通过增资取得了玉象胡杨39.5%的股权，取得玉祥胡杨的控制权。该起交易达到了经营者集中申报标准但未依法进行申报。 ([查看更多](#))

### **SAMR Fines Xuefeng Investment CNY 300,000 for Gun-jumping**

On January 28, 2021, SAMR announced that it has fined Xinjiang Xuefeng Investment Holding Co., Ltd. (“**Xuefeng Investment**”) CNY 300,000 for failing to notify the acquisition of Xinjiang Yuxianghuyang Chemical Co., Ltd. (“**Yuxianghuyang**”). According to SAMR’s investigation, from June to November 2018, Xuefeng Investment obtained a 39.5% stake in Yuxianghuyang through a capital increase and obtained control of the latter. The transaction met the filing thresholds but Xuefeng Investment failed to fulfil its legal obligation of notifying the transaction. ([More](#))

## 中国水泥协会就学习贯彻《反垄断法》发布通知

2021年1月26日，中国水泥协会发布了《关于进一步学习贯彻<反垄断法> 切实维护水泥市场公平竞争的通知》（“《通知》”）。《通知》强调，各地协会组织要认真学习 and 理解《反垄断法》《经营者反垄断合规指南》等法律法规，同时要求会员企业与协会一起规范市场价格行为，提高会员单位依法经营的意识和能力。《通知》要求，协会不得组织水泥企业相互串通，操纵市场价格；协会不得制定排除、限制价格竞争的规则、决定、通知等；协会不得组织水泥企业达成价格垄断协议；协会不得组织水泥企业达成或者实施价格垄断协议之外的其他垄断行为。（[查看更多](#)）

## China Cement Association Calls for Antitrust Compliance

On January 26, 2021, the China Cement Association (“CCA”) issued the *Notice on Further Learning and Complying with the Anti-Monopoly Law and Maintaining Fair Competition in the Cement Market* (“Notice”). The Notice underlines that CCA’s local branches shall study and comprehend the *Anti-Monopoly Law, Guide to the Anti-Monopoly Compliance of Undertakings* and other relevant laws and regulations. The CCA required its members to work with its local branches to regulate price behavior in the cement market and to improve the awareness and ability to operate in accordance with the law. The CCA also pointed out that local branches are prohibited from (i)organizing cement companies to collude and manipulate market prices, (ii)formulating rules, decisions, notices, etc. that exclude or restrict price competition, (iii)organizing cement companies to reach price monopoly agreements, and (iv) organizing cement companies to reach or implement other anti-competitive agreements. ([More](#))

## 国务院征集“红顶中介”垄断经营、公用企业乱收费等问题线索

2021年1月26日，国务院办公厅发布了《关于征集涉企乱收费问题线索的公告》，面向社会征集涉企乱收费的问题线索。其中包括，中介机构借用行政职能或行政资源垄断经营、强制服务、不合理收费等问题，水电气暖等公共事业单位以及物流、海运口岸等领域的强制服务收费或不合理收费等问题。国务院办公厅将对收到的问题线索进行汇总整理，督促有关地方和部门核查处理。（[查看更多](#)）

## China’s State Council Collecting Clues on Arbitrary Charges on Enterprises

On January 26, 2021, the General Office of the State Council of China issued *the Announcement on Collecting Clues on Arbitrary Charges on Enterprises* which identified several typical arbitrary charging practices, including intermediary agencies utilizing administrative functions or resources to monopolize operations, offer mandatory services, and charge unreasonable fees, as well as mandatory service charges or unreasonable charges in areas such as public utilities, transportation & logistics and maritime ports. The General Office will summarize the clues and urge the local governments and related departments to check and deal with the clues. ([More](#))

## 重庆披露2020年反垄断执法情况，曾配合总局对个别网络平台涉嫌垄断行为进行核查

2021年1月25日，重庆市市场监督管理局（“重庆市市监局”）对外披露了2020年反垄断执法情况。其中提到，2020年，重庆市市监局依法查处了云阳县8家砖石企业垄断协议案和巫山县5家液化气充装企业价格垄断协议案，对丰都县商砼企业涉嫌横向垄断协议案完成反垄断调查。此外，重庆市市监局还查处了4件行政垄断案件，联合市级部门对15家网络平台进行反垄断约谈指导，并配合市场监管总局对个别网络平台涉嫌垄断的行为进行了核查。（[查看更多](#)）

### Chongqing AMR Publishes Antitrust Enforcement Performance in 2020

On January 25, 2021, Chongqing Municipal Administration for Market Regulation (“Chongqing AMR”) published its antitrust enforcement performance in 2020. In 2020, the Chongqing AMR concluded 2 horizontal monopoly agreement cases and 4 administrative monopoly cases in accordance with the law and completed the investigation of a suspected horizontal monopoly agreement case. The Chongqing AMR also conducted antitrust interviews and guidance on 15 online platforms and assisted SAMR to verify the suspected monopoly behaviors of certain online platforms. ([More](#))

## 浙江2020：纠正101起行政垄断，6件垄断案件开罚单，清理2.59万件政策文件

2021年1月25日，浙江省市场监督管理局（“浙江省市监局”）对外披露了2020年反垄断执法情况。其中提到，2020年，浙江省市监局共查处行政垄断案件101起，组织开展浙江省优化营商环境反垄断执法专项活动，对6件垄断案件实施处罚。此外，浙江省还组织开展了妨碍统一市场和公平竞争政策措施专项清理行动，共清理政策文件25903件，经清理修订、废止349件。（[查看更多](#)）

### Zhejiang AMR Publishes Antitrust Law Enforcement Performance in 2020

On January 25, 2021, Zhejiang Provincial Administration for Market Regulation (“Zhejiang AMR”) published its antitrust enforcement performance in 2020. In 2020, the Zhejiang AMR concluded 101 administrative monopoly cases, and organized special antitrust enforcement actions to perfect the business environment in Zhejiang Province, and imposed fines in 6 monopoly cases. In addition, Zhejiang Province also organized a special clean-up action on policies and measures that impede a unified market and fair competition. A total of 25,903 policy documents were cleaned up, and 349 were revised or abolished. ([More](#))

## 海外动态 Overseas News

### 欧盟对零食巨头亿滋限制跨境贸易行为启动反垄断调查

2021年1月28日，欧盟委员会宣布对全球零食巨头亿滋（Mondelēz）启动正式的反垄断调查，以评估亿滋阻碍巧克力、饼干、咖啡产品在欧盟成员国之间的跨境贸易的行为是否限制了相关成员国市场中这些产品的竞争。欧盟委员会指出，亿滋是欧盟境内最大的巧克力、饼干和咖啡生产商之一，欧盟委员会担心，亿滋可能通过协议和单边做法限制了其巧克力、饼干和咖啡在欧

盟成员国之间的“平行贸易”（parallel trade）。贸易商和零售商试图在价格较低的内部市场采购产品，然后将其卖到价格较高的市场。这通常会导致价格较高国家的价格下降。对这种平行贸易的限制可能导致一个成员国市场的孤立，制造商或供应商可以收取更高的价格，损害消费者的利益。对平行贸易的限制也可能导致产品多样性的减损。（[查看更多](#)）

## European Commission Opens Formal Antitrust Investigation into Possible Cross-Border Restrictions by Mondelēz

On January 28, 2021, the European Commission announced that it has opened a formal antitrust investigation to assess whether Mondelēz has restricted competition in a range of national markets for chocolate, biscuits and coffee by hindering the cross-border trade of these products between EU Member States. Mondelēz is one of the largest producers of chocolate, biscuits and coffee in the European Union. The Commission is concerned that Mondelēz may have restricted the so-called ‘parallel trade’ of its chocolates, biscuits and coffee between EU Member States through agreements and unilateral practices. Traders and retailers try to procure products in the internal market where the prices are lower and trade them to markets where prices are higher. This generally leads to price decreases in countries where prices are higher. Restrictions to such parallel trade can lead to the isolation of a national market whereby the manufacturer or supplier can charge higher prices to the detriment of consumers. Restrictions to parallel trade can also lead to less product diversity. ([More](#))

## 英国竞争与市场管理局发布《环境可持续发展协议与竞争法指引》

2021年1月27日，英国竞争与市场管理局（Competition & Markets Authority, “CMA”）发布了《环境可持续发展协议与竞争法指引》（Environmental Sustainability Agreements and Competition Law），旨在帮助企业在遵守竞争法的同时实现环境可持续发展目标。该指引概述了现行的竞争法风险自我评估框架，并列出了企业和行业协会在订立可持续发展协议时应考虑的要点。CMA指出，重要的是，竞争法不应成为可持续发展的不必要障碍，也不应因担心违反竞争法而阻止企业参与合法的环境倡议。同样重要的是，要确保市场保持竞争力并对创新开放。（[查看更多](#)）

## UK’s CMA Issues Environmental Sustainability Agreements and Competition Law

On January 27, 2021, the UK’s Competition & Markets Authority (“CMA”) issued the *Environmental Sustainability Agreements and Competition Law* in order to help businesses achieve environmental sustainability goals whilst staying on the right side of competition law. The document outlines the current framework for the self-assessment of competition law risk and sets out the key points that businesses and trade associations should consider when making sustainability agreements. As CMA pointed out, it is important that competition law does not become an unnecessary obstacle to sustainable development, and that businesses are not deterred from taking part in lawful environmental initiatives for fear they may breach competition law. It is also important to make sure that markets remain competitive and open to innovation. ([More](#))

## 美国联邦贸易委员会代理主席宣布临时领导团队任命

2021年1月25日，美国联邦贸易委员会代理主席丽贝卡·凯莉·斯劳特（Rebecca Kelly Slaughter）公布了若干临时的领导团队变动。临时任命包括：雷利·多兰（Reily Dolan），担任代理总

法律顾问。丹尼尔·考夫曼（Daniel Kaufman），自1月30日起担任消费者保护局代理局长。玛丽·佩特里奇兹（Maribeth Petrizzi），在一个短暂的过渡期后担任竞争局代理局长。迈克尔·维塔（Michael G. Vita），继续担任经济局代理局长。萨拉·麦基（Sarah Mackey），自1月30日起担任政策与规划办公室代理主任。（[查看更多](#)）

### **FTC Acting Chair Rebecca Kelly Slaughter Announces Interim Leadership Appointments**

On January 25, 2021, Rebecca Kelly Slaughter, Acting Chair of the Federal Trade Commission unveiled a number of interim leadership changes. The interim appointments are: Reilly Dolan, Acting General Counsel; Daniel Kaufman, Acting Director of the Bureau of Consumer Protection beginning January 30; Maribeth Petrizzi, Acting Director of the Bureau of Competition following a brief transition period; Michael G. Vita, continue to serve as the Acting Director of the Bureau of Economics; and Sarah Mackey, Acting Director of the Office of Policy & Planning beginning January 30. ([More](#))

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