



立方竞争法周报

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国内要闻 Domestic News

《四川省经营者反垄断合规指南》发布

2021年2月26日，四川省市场监督管理局发布了《四川省经营者反垄断合规指南》（“《指南》”）。《指南》共分六章，包括总则、违法风险防控要点、违法风险防控机制、违法风险处置机制、合规保护和附则。此外，《指南》还列出了反垄断法相关法规参考目录、反垄断典型案例作为附件。（[查看更多](#)）

Guidelines of Sichuan Province on Anti-Monopoly Compliance for Undertakings Released

On February 26, 2021, the Administration for Market Regulation of Sichuan Province issued the *Guidelines of Sichuan Province on Anti-Monopoly Compliance for Undertakings* (“**Guidelines**”). The Guidelines is divided into six chapters, including general principles, key points for prevention and control of risks of violating the law, mechanisms for prevention and control of risks of violating the law, mechanisms for handling the risks of violating the law, compliance protection and supplementary provisions. In addition, the Guidelines also lists the antitrust laws and regulations reference catalog and typical antitrust cases as annexes. ([More](#))

福建反垄断第一案：福州市交通运输局指定安全培训平台被纠正，2名有关责任人被问责

2021年2月25日，福建省市场监督管理局（“**福建省市监局**”）发布了关于福建省第一个反垄断案件的新闻稿。2020年12月，福建省市监局对福州市交通运输局涉嫌滥用行政权力排除、限制竞争的行为进行立案调查。经过调查，福建省市监局认为福州市交通运输局通过制定有关文件指定福州市道路运输企业安装使用“安途帮”平台的行为违反了《反垄断法》的规定，并向福州市人民政府发出行政建议书，建议责令福州市交通运输局改正相关行为。调查过程中，福州市交通运输局主动进行了多次整改，并对2名相关责任人进行效能问责。（[查看更多](#)）

First Antitrust Case in Fujian: 2 Officials Held Accountable for Administrative Monopoly

On February 25, 2021, the Administration for Market Regulation of Fujian Province (“**Fujian AMR**”) issued a press release on the first antitrust case in Fujian. In December 2020, the Fujian AMR initiated an investigation into the suspected abuse of administrative power by the Fuzhou Municipal Transportation Bureau. After investigation, the Fujian AMR believed that the Bureau violated the *Anti-Monopoly Law* by formulating relevant documents to instruct Fuzhou transportation companies to install and use the designated “Antubang” platform. Therefore, the Fujian AMR issued an administrative proposal to the Fuzhou People’s Government, suggesting that the Bureau be ordered to correct the relevant behavior. During the investigation, the Bureau took the initiative to carry out several rectifications and held the two relative people in charge accountable. ([More](#))

福建省市监局纠正古田县政府医药领域行政垄断行为

2021年2月25日，福建省市监局发布新闻称，2020年12月，福建省市监局对古田县人民政府涉嫌滥用行政权力排除、限制竞争行为进行调查。调查发现，古田县人民政府在2019年9月29日发布的通知文件中，规定了“在同等条件下，优先支持本县生物与新医药生产与药品销售企业依法依规参与本县辖区内的所有公立医院、卫生院、门诊的药品配送权的竞标”等违反《反垄断法》的内容。调查期间，古田县人民政府主动采取措施停止相关行为，并向社会公开，福建省市监局依法结束该项调查。（[查看更多](#)）

Fujian AMR Corrects Administrative Monopoly Behavior of Gutian Government in Pharmaceutical Field

On February 25, 2021, the Fujian AMR issued a press release saying that in December 2020, the Fujian AMR launched an investigation into the Gutian County People's Government (“**Gutian Government**”) for allegedly abusing its administrative power to exclude or restrict competition. The Fujian AMR found that on September 29, 2019, the Gutian Government issued a notice in the pharmaceutical field which contains several provisions that are suspected of local protection and constitutes the abuse of administrative power to exclude or restrict competition. The Fujian AMR decided to close the investigation according to law considering the Gutian Government has taken the initiative to stop the behavior and made it public to society during the investigation. ([More](#))

河北部署2021年反垄断等工作，将组织开展城镇公用企业垄断问题专项执法行动

2021年2月23日，河北省市场监督管理局召开了2021年河北省全省价格监督检查、反垄断和反不正当竞争工作电视电话会议。会议强调，要加强反垄断执法和公平竞争审查。强化执法力量配置和整合，组织开展城镇公用企业垄断问题专项执法行动，扎实做好垄断线索核查，做到快速核查、有效处置、及时反馈。全面落实《公平竞争审查制度实施细则》，严格把好政策出台关口，推行第三方评估，深入排查违反公平竞争审查标准排除、限制竞争问题，营造公平竞争良好氛围。（[查看更多](#)）

Hebei Deploys Antitrust and Fair Competition Review Work in 2021

On February 23, 2021, the Administration for Market Regulation of Hebei Province (“**Hebei AMR**”) held the 2021 Hebei Video and Telephone Conference on Price Regulation, Antitrust and Anti-Unfair Competition Work. The Hebei AMR emphasized the need to strengthen antitrust enforcement and fair competition review, to strengthen the allocation and integration of law enforcement forces, to organize and carry out special law enforcement actions on the monopoly of urban public enterprises, and to do a solid job of reviewing monopoly clues, to achieve rapid verification, effective disposal and timely feedback. It also needs to fully implement the *Detailed Rules for the Implementation of the Fair Competition Review System*, to strictly control the introduction of policies and implement third-party assessments, to thoroughly investigate problems of violating fair competition review standards to eliminate or restrict competition, and to create a fair competition atmosphere. ([More](#))

吉林省召开市场监管工作会议，部署反垄断、公平竞争审查等工作

2021年2月20日，吉林省市场监管工作电视电话会议在长春召开。会议指出，强化反垄断与反不正当竞争执法。落实《平台经济领域反垄断指南》，摸清底数、加强指导，规范平台经济健康发展。按照国家市场监督管理总局（“市场监管总局”）授权，重点查处教育、医药、交通、民生领域限定交易、地方保护等行政垄断行为。发布《经营者竞争合规指南》地方标准。强化公平竞争审查制度刚性约束。落实竞争政策基础地位，健全公平竞争审查机制，加强绩效考核、定期抽查，开展公平竞争审查交叉检查，推动落实主体责任。推行第三方评估，覆盖300个部门以上。（[查看更多](#)）

Jilin Deploys Antitrust and Fair Competition Review Work in 2021

On February 20, 2021, the Jilin Video and Telephone Conference on Market Regulation was held in Changchun. According to the meeting, Jilin market regulators will strengthen antitrust and anti-unfair competition enforcement, implement the *Antitrust Guidelines for the Platform Economy Industry*, strengthen guidance, standardize the healthy development of the platform economy, and focus on the investigation and punishment of administrative monopoly behaviors in the fields of education, medicine, transportation, and people's livelihoods, as authorized by the State Administration for Market Regulation (“SAMR”). The regulators will publish the *Competition Compliance Guidance for Business Operators* and establish a joint conference system against unfair competition, strengthen the protection of trade secrets and build 10 trade secret protection bases, strengthen the rigid constraints of the fair competition review system, implement the basic status of competition policy, improve the fair competition review mechanism, strengthen performance appraisal and regular spot checks, carry out cross-checks of fair competition review, promote the implementation of entity responsibilities, and implement third-party assessments covering more than 300 departments. ([More](#))

云南省市监局查处供水企业滥用市场支配地位案

2021年2月18日，市场监管总局公布了云南省市场监督管理局（“云南省市监局”）对蒙自四通泰兴供水有限公司（“四通泰兴公司”）滥用市场支配地位行为的案件调查结果。2018年12月，云南省市监局对四通泰兴公司涉嫌垄断问题立案调查，发现四通泰兴公司利用在城市公共自来水供水服务市场的支配地位，无正当理由在交易时附加不合理的交易条件，违反《反垄断法》第十七条规定，且为时长达四年，对多家建设单位实施，应从重处罚。2021年1月21日，云南省市监局对当事人依法作出行政处罚决定，责令其停止违法行为，并对其处以2018年度销售额6%的罚款，共计约250万元。（[查看更多](#)）

Yunnan AMR Fines Local Water Supply Company CNY 2.5m for Abuse of Market Dominance

On February 18, 2021, SAMR announced that the Administration for Market Regulation of Yunnan Province (“Yunnan AMR”) has fined Mengzi Sitongtaixing Water Supply Co., Ltd. (“Sitongtaixing”) for abuse of dominant position. In December 2018, the Yunnan AMR initiated an investigation into Sitongtaixing and found that the company has abused its dominant position in the market of urban public water supply service to attach unreasonable trading conditions without justified reasons. The violation lasted four years and unfair trading conditions were imposed on a number of construction compa-

nies. The Yunnan AMR concluded that the company should be given severe punishment. On January 21, 2021, the Yunnan AMR issued its administrative punishment decision, ordering the company to stop illegal activities and imposing a fine of 6% of the company's 2018 sales, totaling about CNY 2.5 million. ([More](#))

海外动态 Overseas News

英国消费者维权机构Which?对高通发起集体诉讼，索赔4.8亿英镑

2021年2月25日，英国消费者维权机构Which?宣布已针对美国科技巨头高通（Qualcomm）提起诉讼。Which?称，高通滥用了在英国专利许可和芯片市场的支配地位，向苹果、三星等手机制造商收取了过高的技术许可费，这一成本最终被转嫁给了英国消费者。本次诉讼主要涉及2015年10月1日以来购买了苹果和三星特定型号的智能手机的消费者。Which?估计，如果胜诉，高通将需要向约2900万英国消费者赔偿约4.825亿英镑，每位消费者可收到最高达30英镑的赔偿，目前为止每位消费者预估可收到17英镑的赔偿。该案已经立案，下一步，Which?将争取从英国竞争上诉法庭获得准许，以使其作为该集体诉讼的代表并使该案按照集体诉讼审理。（[查看更多](#)）

UK Consumer Watchdog Which? Sues Qualcomm for Allegedly Breaching Competition Law

On February 25, 2021, the British consumer group Which? announced that it has filed a lawsuit against US technology giant Qualcomm. Which? claims that Qualcomm has breached UK competition law by taking advantage of its dominance in the patent-licensing and chipset markets. The result is that Qualcomm is able to charge manufacturers like Apple and Samsung inflated fees for technology licences, which have then been passed on to consumers in the form of higher smartphone prices. Which? is seeking damages for all affected Apple and Samsung smartphones purchased since 1st October 2015. Which? estimates that if it wins, Qualcomm will need to compensate approximately 29 million British consumers about £482.5 million. It estimates that individual consumers could be due up to £30 depending on the number and type of smartphones purchased during that period, although it is expected at this stage that most consumers would receive around £17. ([More](#))

美国肉鸡巨头就固定价格、串通投标认罪，被判超1亿美元反垄断刑事罚金

2021年2月23日，美国司法部宣布，美国最大的肉鸡企业之一，位于科罗拉多州的皮尔格林公司（Pilgrim's Pride Corporation）已就参与肉鸡行业共谋固定价格和串通投标的反垄断刑事指控认罪，并被判处约1.079亿美元的刑事罚金。认罪协议显示，2012年至2017年，皮尔格林公司参与了削弱、排除美国肉鸡产品市场竞争的共谋，影响了该公司3.61亿美元的肉鸡销售。在对肉鸡行业共谋固定价格和串通投标行为的调查中，皮尔格林公司是第一家认罪的公司。此外，其他主要肉鸡企业的十名高管和员工也被起诉，相关调查还在进行中。（[查看更多](#)）

One of America's Largest Chicken Producers Pleads Guilty to Price Fixing and is Sentenced to a \$107 Million Criminal Fine

On February 23, 2021, the Department of Justice announced that Pilgrim's Pride Corporation ("Pilgrim's"), a major broiler chicken producer based in Greeley, Colorado, has pleaded guilty and has been sentenced to pay approximately \$107 million in criminal fines for its participation in a conspiracy to fix prices and rig bids for broiler chicken products. According to the plea agreement, from as early as 2012 and continuing at least into 2017, Pilgrim's participated in a conspiracy to suppress and eliminate competition for sales of broiler chicken products in the United States that affected at least \$361 million in Pilgrim's sales of broiler chicken products. Pilgrim's is the first company to plead guilty for its role in a conspiracy to fix prices and rig bids for broiler chicken products. Ten executives and employees at major broiler chicken producers have also previously been charged. The investigation remains ongoing. ([More](#))

美国众议院反垄断小组委员会将举行系列听证会，讨论遏制网络平台垄断、反垄断法现代化提案

2021年2月18日，美国众议院司法委员会反垄断、商业与行政法小组委员会发布新闻称，其将举办一系列听证会，讨论应对网络市场力量上升与滥用及反垄断法现代化的立法提案。第一次听证会定于美国东部时间2月25日上午10点进行，主题为“重振竞争，第一部分：应对守门人力量与降低网络市场进入门槛的提案”。2月19日，美国众议院司法委员会网站上发布了此次听证会的正式通知。 ([查看更多](#))

House Judiciary Antitrust Subcommittee Announces Series of Hearings on Proposals to Curb the Dominance of Online Platforms and Modernize Antitrust Law

On February 18, 2021, the House Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law announced it will hold a series of hearings to consider legislative proposals to address the rise and abuse of market power online and to modernize the antitrust laws. The first hearing, entitled, "Reviving Competition, Part 1: Proposals to Address Gatekeeper Power and Lower Barriers to Entry Online," was scheduled to take place on February 25 at 10:00 a.m. E.T. On February 19, the House Judiciary Committee published the official notice of this hearing on its website. ([More](#))

欧盟通过最终措施方案，确保诺贝丽丝收购爱励铝业交易剥离资产救济措施的有效性

2021年2月18日，欧盟委员会宣布已通过最终措施方案，以确保在全球铝业巨头诺贝丽丝 (Novelis) 收购爱励铝业 (Aleris) 的交易中，根据欧盟并购法规对原爱励铝业旗下位于比利时德弗尔的工厂剥离的有效性。2019年10月1日，欧盟委员会附条件批准了诺贝丽丝对爱励铝业的收购方案。为消除欧盟委员会的竞争顾虑，交易方承诺剥离爱励铝业在欧洲的全部铝制车身板业务，其中就包括德弗尔工厂。随后，欧盟委员会于2020年1月20日根据欧盟并购法规批准了潜在买方Liberty House公司对该工厂的收购，并于4月7日认定Liberty House公司为诺贝丽丝收购爱励铝业交易拟剥离资产的适格买方。此后，根据诺贝丽丝的请求，欧盟委员会多次批准了收购

截止日期的延后，但诺贝丽丝仍未能在延后的截止日期前完成对德弗尔工厂的出售，相应剥离承诺及欧盟委员会的批准决定随即失效。2020年9月1日，欧盟委员会决定采取临时措施，保持德弗尔工厂的生存能力和竞争力。2020年9月30日，诺贝丽丝在获得临时授权后，最终完成了出售。在德弗尔工厂出售后，欧盟委员会认为需要采取最终措施保证该出售有效，并维持工厂的生存能力和竞争力，因此要求诺贝丽丝遵守一系列措施要求。（[查看更多](#)）

European Commission Adopts Final Measures to Preserve the Divestment of Former Aleris Plant in Belgium Following Novelis' Acquisition of Aleris

On February 18, 2021, the European Commission announced that it has adopted final measures to preserve the divestment of the former Aleris plant in Duffel, Belgium, by Novelis under the EU Merger Regulation. To obtain clearance of its acquisition of Aleris in 2019, Novelis offered to divest the plant in binding commitments but failed to close the sale within the deadline set in those commitments, despite extensions granted. As a result of the breach of this condition of the Commission's 2019 clearance decision, the decision and the commitments became inapplicable. The Commission, therefore, adopted provisional interim measures to preserve competition. Novelis later sold the Duffel plant, as authorised by the Commission in compliance with the interim measures. The Commission believes that the decision adopted will ensure that competition is preserved by imposing final measures on Novelis. ([More](#))

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