



NEWSLETTER

LIFANG & PARTNERS **立方观评**



关注更多精彩内容

No.218

2021.03

立方竞争法周报

Weekly Competition Law News

NO.105

国内要闻 Domestic News

甘肃查处一道路运输管理局行政垄断行为

Gansu AMR Investigates An Administrative Monopoly Case

“浙江公平在线”上线，利用大数据监测垄断行为

“Zhejiang Fair Online” Launched for Utilizing Big Data to Monitor Monopoly Behaviors

最高法知产法庭发布“砖瓦协会”垄断案判决书全文及四篇解读评论文章

SPC's IP Court Issues the Judgment of A Monopoly Case and Related Four Articles

广东省发布竞争政策在粤港澳大湾区先行落地的实施方案

Guangdong Releases and Introduces the Competition Policy Implementation Plan in the Greater Bay Area

最高法知产法庭公布三起垄断案件裁判要旨

SPC's IP Court Releases Judgement Essence of Three Monopoly Cases

海外动态 Overseas News

英国反垄断执法机构对苹果公司展开调查，涉苹果应用商店

CMA Investigates Apple Over Suspected Anti-Competitive Behaviors

美国联邦贸易委员会发布《乙醇市场集中度2020年度报告》

FTC Issues Annual Report on Ethanol Market Concentration 2020

OECD发布《2021年竞争趋势报告》

OECD Issues Competition Trends 2021

国内要闻 Domestic News

甘肃查处一道路运输管理局行政垄断行为

2021年3月2日，国家市场监督管理总局（“市场监管总局”）公布了甘肃省市场监督管理局（“甘肃省市监局”）纠正武山县道路运输管理局（“武山县道路运管局”）滥用行政权力的行政建议决定。此前，甘肃省市监局根据举报调查武山县道路运管局违法增设行政许可审查条件，排除限制当地道路运输市场竞争的行为并认定其构成滥用行政权力，因此向武山县人民政府提出行政建议，责令武山县道路运管局撤销违法决定、依法对涉案路线重新招投标并实施行政许可以及对相关负责人员给予处分。（[查看更多](#)）

Gansu AMR Investigates An Administrative Monopoly Case

On March 2, 2021, the State Administration for Market Regulation (“SAMR”) issued the administrative suggestion made by Gansu Provincial Administration for Market Regulation (“Gansu AMR”) for correcting the abusing administrative power behaviors by Wushan County Road Transport Administrative Bureau (“Wushan RTAB”). In the past year, based on complaints, Gansu AMR launched an investigation against the Wushan RTAB’s behavior of illegally adding administrative license review terms and excluding and restricting the competition of local road transportation market, and further concluded that the Wushan RTAB’s behavior constituted the abuse of administrative power. Gansu AMR then made administrative suggestion for the Wushan County People’s Government, suggesting revoking the illegal decision of the Wushan RTAB, re-bidding and implementing the administrative license for the involved roads and holding the people in charge accountable. ([More](#))

“浙江公平在线”上线，利用大数据监测垄断行为

2021年3月2日，浙江省市场监督管理局（“浙江省市监局”）发布新闻，称“浙江公平在线”系统已经正式上线。“浙江公平在线”监测系统将在全国网络交易监测平台现有的“网络禁限售”“虚假宣传”“价格违法”“网络传销”“知识产权侵权”和“主体违规”六大类监测重点基础上，聚焦平台经济领域垄断及不正当行为，着重对“二选一”“大数据杀熟”“低于成本价销售”“纵向垄断协议”“违法实施经营者集中”等五类行为实施监测，并研发五大风控模型，智能识别平台涉嫌垄断行为线索，形成平台垄断风险清单。（[查看更多](#)）

“Zhejiang Fair Online” Launched for Utilizing Big Data to Monitor Monopoly Behaviors

On March 2, 2021, the Zhejiang Provincial Administration of Market Regulation (“Zhejiang AMR”) released a press stating “Zhejiang Fair Online” has been launched. Based on six behaviors currently monitored by National Network Transaction Monitoring Platform, including “prohibited and restricted network sales”, “false advertisement”, “price violation”, “network pyramid scheme”, “intellectual property right infringement” and “entity violation”, “Zhejiang Fair Online” monitoring system will focus on monopolistic and unfair behaviors in the field of platform economics, mainly supervising “either-or”, “using the algorithms to implement differentiated transaction conditions”, “vertical monopoly agreement” and “illegal undertakings concentration”. The system has also developed 5 risk control models and is able to intelligently identify clues of platform’s suspected monopolistic behaviors, and will form platform monopoly risk list. ([More](#))

最高法知产法庭发布“砖瓦协会”垄断案判决书全文及四篇解读评论文章

2021年3月2日，最高人民法院知识产权法庭（“最高法知产法庭”）官方微信发布了“砖瓦协会”垄断纠纷案判决书全文和四篇相关的解读评论文章。本案中，四川省宜宾市砖瓦协会及其成员企业实施了垄断协议，破坏了市场竞争秩序。其中一企业上诉坚称其系被迫参与垄断协议，要求其他企业和协会赔偿其经济损失和合理开支。法院认定横向垄断协议的实施者无权要求其他实施者赔偿其因实施横向垄断协议导致的所谓经济损失，驳回了诉讼请求。（[查看更多](#)）

SPC's IP Court Issues the Judgment of A Monopoly Case and Related Four Articles

On March 2, 2021, the official Wechat account of the Intellectual Property Court of the Supreme People's Court (“SPC's IP Court”) issued the full text of judgment of the “Bricks and Tile Association” monopoly case and other related 4 comment articles. According to the judgment, the Sichuan Yibin Bricks and Tile Association (“Association”) and its member enterprises implemented a monopoly agreement and restrained the market competition order. One of the enterprises appealed before SPC claiming that it was forced to participate in and therefore asked other enterprises and the Association to compensate for its economic damage and reasonable expenses. SPC found that the implementor of a horizontal monopoly agreement has no right to require other implementors to compensate for its so-called economic damage caused by its implementation of the agreement and therefore rejected the appeal. ([More](#))

广东省发布竞争政策在粤港澳大湾区先行落地的实施方案

2021年3月1日，广东省人民政府新闻办公室举行发布会，介绍了《广东省进一步推动竞争政策在粤港澳大湾区先行落地的实施方案》（“《实施方案》”）的相关情况。《实施方案》强调要全面落实公平竞争审查制度，进一步加强反垄断和反不正当竞争执法，深入推进有利于公平竞争的市场准入改革，全力支持深圳开展竞争执法先行试点和大力倡导竞争文化。（[查看更多](#)）

Guangdong Releases and Introduces the Competition Policy Implementation Plan in the Greater Bay Area

On March 1, 2021, the Guangdong Province Government held a press conference to introduce the *Implementation Plan for Guangdong Province to Further Promote the Implementation of Competition Policy in the Guangdong-Hong Kong-Macao Greater Bay Area* (“Plan”). The Plan requires to fully implement the fair competition review system, further strengthen the enforcement of *Anti-Monopoly Law* and *Law against Unfair Competition*, further promote market access reforms benefiting fair competition, and fully support Shenzhen to carry out pilot of competition law enforcement and advocate competition culture. ([More](#))

最高法知产法庭公布三起垄断案件裁判要旨

2021年2月26日，最高法知产法庭发布了《最高人民法院知识产权法庭裁判要旨（2020）》，总结了法庭在相关领域案件中的司法理念、审理思路和裁判方法。其中有三宗案件涉及反垄断，

包括对横向垄断协议实施者要求其他实施者赔偿其所谓经济损失的处理，滥用行政权力引发的垄断民事纠纷的受理条件，以及涉境外垄断行为的垄断民事纠纷案件管辖。（[查看更多](#)）

SPC's IP Court Releases Judgement Essence of Three Monopoly Cases

On February 26, 2021, SPC's IP Court released the *Judgment Essence (2020) of Intellectual Property Court of SPC*, summarizing the court's judicial theories, trial logics and judging methods. Three of these cases involved antitrust disputes, including the case concerning the economic damages asserted by the horizontal monopoly agreement implementor from other implementors; the case concerning the conditions for accepting civil monopoly disputes caused by the abuse of administrative power, and the case concerning the jurisdiction of civil monopoly disputes involving foreign monopolistic behaviors. ([More](#))

海外动态 Overseas News

英国反垄断执法机构对苹果公司展开调查，涉苹果应用商店

2021年3月4日，英国反垄断执法机构竞争与市场管理局（Competition & Market Authority, “CMA”）宣布已根据举报对美国苹果公司展开调查。多名开发者向CMA举报，称苹果公司要求开发者必须同意特定条款，才允许应用应用商店中上架，且一些应用的内置服务、拓展功能或升级必须使用苹果自带的支付系统。此外，苹果还根据交易价值向开发者收取最多30%的交易佣金。CMA将调查苹果公司在英国苹果设备应用分发市场上是否具有支配地位。以及，若具有支配地位，苹果公司是否对使用苹果应用商店的开发者施加了不公平或反竞争的条款，最终使得用户面临更少的选择或为应用及拓展功能支付更高的价格。（[查看更多](#)）

CMA Investigates Apple Over Suspected Anti-Competitive Behaviors

On March 4, 2021, the Competition & Market Authority (“CMA”) stated that it has launched an investigation into Apple following complaints that its terms and conditions for app developers are unfair and anti-competitive. All apps available through the App Store have to be approved by Apple, with this approval hinging on developers agreeing to certain terms. These complaints also highlighted that certain developers who offer ‘in-app’ features, add-ons or upgrades are required to use Apple’s payment system, rather than an alternative system. Apple charges a commission of up to 30% to developers on the value of these transactions or any time a consumer buys their app. The CMA’s investigation will consider whether Apple has a dominant position in connection with the distribution of apps on Apple devices in the UK – and, if so, whether Apple imposes unfair or anti-competitive terms on developers using the App Store, ultimately resulting in users having less choice or paying higher prices for apps and add-ons. ([More](#))

美国联邦贸易委员会发布《乙醇市场集中度2020年度报告》

2021年3月3日，美国联邦贸易委员会（Federal Trade Commission, “FTC”）发布了《乙醇市场集中度2020年度报告》（2020 Report on Ethanol Market Concentration）。根据美国《2005年能源政策法案》（Energy Policy Act of 2005），FTC需要对乙醇生产行业的市场集中度进行年度审查，“以确定该市场的行业经营者间是否存在足够的竞争，避免价格设定和其他反竞争行为”。

与往年一样，2020年度报告的结论为，“美国乙醇生产行业的低集中度和大量的市场参与者表明，在全国范围内借由市场力量来设定价格、协调价格或产量是不太可能的”。([查看更多](#))

FTC Issues Annual Report on Ethanol Market Concentration 2020

On 3 March 2021, the Federal Trade Commission (“FTC”) issued its *2020 Report on Ethanol Market Concentration*. The *Energy Policy Act of 2005* directed the Commission to perform an annual review of market concentration in the ethanol production industry “to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.” As in prior years, the 2020 report concludes that “[t]he low level of concentration and large number of market participants in the U.S. ethanol production industry continue to suggest that the exercise of market power to set prices, or coordinate on price or output levels, is unlikely on a nationwide basis.” ([More](#))

OECD发布《2021年竞争趋势报告》

2021年2月24日，经济合作与发展组织（OECD）于竞争开放日活动上发布了《2021年竞争趋势报告》。报告描述了卡特尔案件、滥用市场支配地位案件和合并审查案件的执法趋势。《2021年竞争趋势报告》由两卷组成。第一卷《2015-2019年全球竞争执法更新》（Volume I. Global Competition Enforcement Update 2015-19）更新了56个竞争管理机构2015年至2019年的竞争执法趋势。第二卷《全球合并规制》（Volume II. Global Merger Control）通过分析全球合并审查趋势，描述不同法域执法机构在设计法律制度时做出的不同选择以及描述全球合并控制活动及合并控制执法趋势，为合并控制提供了“聚焦性”观点。([查看更多](#))

OECD Issues Competition Trends 2021

On February 24, 2021, the Organization for Economic Co-operation and Development (“OECD”) launched the *Competition Trends 2021* (“*Report*”) at OECD Competition Open Day. The *Report* describes enforcement trends relating to cartels, abuse of dominance cases and merger reviews. The report is presented in two volumes. *Volume I. Global Competition Enforcement Update 2015-19* provides an update on the competition enforcement trends between 2015-2019 for the competition authorities of the 56 jurisdictions. *Volume II. Global Merger Control* provides an “in-focus” view on merger control by providing an overview of trends in global merger control, describing a selection of the different choices made by jurisdictions when designing legal regimes, global merger control activity, and trends in merger control enforcement. ([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。



This Newsletter has been prepared for clients and professional associates of Lifang & Partners. Whilst every effort has been made to ensure accuracy, no responsibility can be accepted for errors and omissions, however caused. The information contained in this publication should not be relied on as legal advice and should not be regarded as a substitute for detailed advice in individual cases.





Subscribe to our WeChat community

扫码关注公众号“立方律师事务所”和“竞争法视界”

北京 | 上海 | 武汉 | 广州 | 深圳 | 韩国
Beijing | Shanghai | Wuhan | Guangzhou | Shenzhen | Korea

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

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