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## 国内要闻 Domestic News

### 市场监管总局发布天然气公司滥用市场支配地位案行政处罚决定

2021年4月1日，国家市场监督管理总局（“市场监管总局”）发布了四川省市场监管总局（“四川省市监局”）针对一天然气公司的行政处罚决定。经调查，四川省市监局认定该公司滥用其在富顺县管道燃气供应市场的支配地位，以收取前置保证金的方式附加不合理交易条件。考虑到该企业积极配合调查，并在调查前主动向用户退还收款，消除负面影响，四川省市监局责令其停止违法行为，处以其2019年度销售额1%，约165万元的罚款。（[查看更多](#)）

### SAMR Issues Penalty Decision on Natural Gas Company Abusing Dominant Market Position

On April 1, 2021, the State Administration for Market Regulation (“SAMR”) issued the administrative penalty decision of Sichuan Provincial Administration for Market Regulation (“Sichuan AMR”) against a natural gas company. After investigation, Sichuan AMR held the company abusing its dominant position in the Fushun County pipeline gas supply market by imposing unreasonable trading conditions such as collecting pre-deposits from its users. Given that the company had actively cooperated with the investigation, proactively refunded before the investigation and eliminated the negative influence of its behavior, Sichuan AMR ordered it to stop illegal conducts and imposed a fine of 1% of its 2019 sales, which was approximately CNY 1.65 million. ([More](#))

### 山东省拟加强原料药领域反垄断执法

2021年3月31日，山东省市场监督管理局（“山东省市监局”）发布文章称，将加强对原料药领域垄断案件、公用事业等民生领域垄断案件和行政性垄断案件的执法。山东省市监局将依法对三硅酸镁原料药涉嫌垄断案进行听证，将依据听证结果予以处理并推进后续处罚；加快已立案的原料药垄断案件查办工作，争取2021年内办结；加强其他原料药垄断线索核查，组织开展原料药垄断执法宣传，保护原料药市场公平有序竞争。（[查看更多](#)）

### Shandong Province to Strengthen Enforcement in the APIs Field

On March 31, 2021, Shandong Provincial Administration for Market Regulation (“Shandong AMR”) published an article, stating that it will strengthen the enforcement of active pharmaceutical ingredients (“APIs”) monopoly cases, public utilities monopoly cases (and other people’s livelihood monopoly cases) and administrative monopoly cases. Shandong AMR will conduct a hearing on the suspected monopoly of magnesium trisilicate APIs in accordance with law, and will handle the case based on the hearing results and advance subsequent penalties. Shandong AMR will speed up the investigation and handling of the APIs monopoly cases which have already been filed, and will strive to close these cases within the end of 2021. Shandong AMR will strengthen the inspection of other APIs monopoly clues, organize the promotion of APIs monopoly enforcement, and protect the fair and orderly competition in the APIs market. ([More](#))

## 重庆查处液化气充装企业垄断协议案，罚款约七万

2021年3月30日，重庆市市场监督管理局（“重庆市市监局”）发布了针对五家液化气充装企业的处罚决定。这五家企业2020年初签订了《经营者集中协议》，约定一家经营，其余四家停止经营，五家企业共同分配利润，构成垄断协议行为。该行为限制、排除了市场竞争，损害了巫山县瓶装供应站企业的利益，使相关企业失去议价和选择权。由于涉事企业积极配合调查，行为持续时间短、对市场损害小，重庆市市监局责令企业停止违法行为，并对五家企业罚款合计约七万元。（[查看更多](#)）

## Chongqing AMR Closes Liquefied Gas Filling Companies Monopoly Agreement Case and Fines Nearly CNY 70,000

On March 30, 2021, Chongqing Municipal Administration for Market Regulation (“Chongqing AMR”) issued the penalty decisions against five liquefied gas filling companies. These five companies signed an “Operators Concentration Agreement” at the beginning of 2020, and agreed to allow one company to operate and case the operations of four others and these companies would share the profit together, which constituted a monopoly agreement which eliminated and restricted the market competition, and hurt the interests of Wushan County bottle supply station companies for making them lose their right to bargain and choose. Given that the relevant companies had actively cooperated with the investigation, and that the behaviors only lasted for a short time and caused little damage to the market, Chongqing AMR decided to order the companies to stop the illegal conducts and fined the companies a total of about CNY 70,000. ([More](#))

## 中央依法治国办：强化反垄断执法，打破行业垄断

2021年3月25日，中共中央依法治国委员会办公室（“中央依法治国办”）成员、司法部副部长熊选国出席新闻发布会，就为“十四五”贡献法治力量回答了记者提问。他提出要加快打造市场化、法治化、国际化的营商环境，推动清理妨碍统一市场和公平竞争的法律法规，强化反垄断和反不正当竞争执法司法，用法治打破行业垄断和地方保护，打通经济循环的堵点，推动形成全国统一、公平竞争、规范有序的市场体系。（[查看更多](#)）

## Commission Office for Law-based Governance under the CPC Central Committee: Strengthening Antitrust Law Enforcement and Breaking Industry Monopoly

On March 25, 2021, a member of the Commission Office for Law-based Governance under the CPC Central Committee, who is also the vice minister of the Ministry of Justice, Xiong Xuanguo, attended a press conference and answered reporters’ questions on contributing to the rule of law during the “14<sup>th</sup> Five-Year Period”. He proposed to accelerate the building of a market-oriented, rule-of-law, and international business environment, promote the clearance of the laws and regulations obstructing the unified market and fair competition, strengthen the enforcement of antitrust and anti-unfair competition, break the industry monopoly and local protectionism under the rule of law, untangle the blocking points of the economic circulation, and promote to form a nationwide-unified, fair-competed, standardized and orderly market system. ([More](#))

## 陕西省市监局发布2021年反垄断工作要点

2021年3月23日，陕西省市场监督管理局（“陕西省市监局”）发布了2021年陕西省反垄断工作要点。2021年，陕西省市监局将加强反垄断执法，重点查处民生领域垄断案件、强化平台经济领域反垄断监管、加大反行政垄断执法、制定发布《陕西省经营者反垄断合规指引》、扩大垄断案件线索渠道、建立反垄断专家团队并提高执法队伍素质。同时，陕西省市监局还将注意强化竞争政策基础地位，落实公平竞争审查制度。（[查看更多](#)）

### Shaanxi AMR Issues Key Points of 2021 Antitrust Work

On March 23, 2021, Shaanxi Provincial Administration for Market Regulation (“Shaanxi AMR”) issued the key points of 2021 antitrust work. In 2021, Shaanxi AMR will strengthen the antitrust enforcement, focus on investigating and handling monopoly cases in the field of people’s livelihood, strengthen antitrust regulation in the field of platform economy, increase antitrust law enforcement on administrative monopoly cases, formulate and issue the *Guidelines for Antitrust Compliance for Operators in Shaanxi Province*, expand channels for clues in monopoly cases, build an antitrust expert team and improve the professionalism of enforcement personnel. Meanwhile, Shaanxi AMR will also pay attention to strengthen the fundamental position of competition policy and implement the fair competition review system. ([More](#))

## 海外动态 Overseas News

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### 日本公平贸易委员会发布算法/人工智能与竞争政策报告

2021年3月31日，日本公平贸易委员会（Japan Fair Trade Commission, “JFTC”）发布了日本首份《算法/人工智能与竞争政策报告》。该报告总结了JFTC数字市场竞争政策研究工作组历次会议成果。目前为止，四种容易引起竞争关切的算法和人工智能实践包括监控算法、并行算法、信号算法和自学习算法。除利用日本反垄断法解决竞争关切外，JFTC仍需跟进相关技术发展、技术的商业应用和相关案例，以应对与自学习算法相关的竞争实践。此外，报告还研究了与排名操纵、个性化算法、算法/人工智能轴辐式协同、积聚数据和人工智能技术栈建立算法/人工智能优势等问题。（[查看更多](#)）

### JFTC Releases the Report on Algorithms/AI and Competition Policy

On March 31, 2021, the Japan Fair Trade Commission (“JFTC”) issued Japan’s first *Report on Algorithm/AI and Competition Policy*. The Report summarized the results of previous meetings of the JFTC digital market competition policy research working group. So far, the four algorithms and AI practices which are likely to cause competition concerns include monitoring algorithms, parallel algorithms, signaling algorithms and self-learning algorithms. In addition to using Japanese antitrust law to address the competition concerns, JFTC still needs to follow relevant technological developments and the way those new technologies are employed in business as well as relevant cases, with regard to concerted practices by self-learning algorithms. Besides, the Report also studied on issues including ranking manipulation, personalization, hub-and-spoke type of concerted practices by algorithms/AI, and accumulation of data and AI technology stack to establish algorithm/AI advantages. ([More](#))

## 美国联邦贸易委员会起诉阻止因美纳收购Grail

2021年3月30日，美国联邦贸易委员会（Federal Trade Commission，“FTC”）宣布，已就因美纳（Illumina）拟花费71亿美元收购Grail提出行政诉讼以阻止该交易，Grail是一家提供无创、早期检测液体活检测试的制造商，是美国唯一为多种癌症早期检测（“MCED”）提供DNA序列测试的公司。诉讼称这一并购将会削弱美国MCED市场的创新力，降低MCED测试的质量，提高价格。委员会以4-0的投票，同意提起行政诉讼，并授权员工就此交易申请临时限制令和初步禁令。[（查看更多）](#)

### FTC Files a Complaint to Block Illumina’s Acquisition of Grail

On March 30, 2021, the Federal Trade Commission (“FTC”) announced that it filed an administrative complaint to block Illumina’s 7.1 billion USD proposed acquisition of Grail—a maker of non-invasive, early detection liquid biopsy test that can screen for multiple types of cancer using DNA sequencing. Illumina is the only provider of DNA sequencing for the multi-cancer early detection (“MCED”) in the United States. The complaint alleges that the proposed acquisition will reduce innovation in the U.S. market for MCED tests, diminish the quality of MCED tests and make them more expensive. The Commission vote to issue the administrative complaint and to authorize staff to seek a temporary restraining order and preliminary injunction was 4-0. [\(More\)](#)

## 欧盟委员会对电力交易所EPEX Spot SE涉嫌滥用市场支配地位展开调查

2021年3月30日，欧盟委员会宣布其已对电力交易所EPEX Spot SE（“EPEX Spot”）是否在至少六个成员国的电力日内交易便利服务市场中存在滥用市场支配地位的行为展开正式调查。电力日内市场是电力的买卖双方为在电力输入电网前最后几小时可交易电力的市场，该类市场对于电网安全及高效利用绿色能源十分重要。调查将关注EPEX Spot是否通过限制竞争对手客户接触日内市场的完整流动资产以封锁竞争对手。这一行为可能会扭曲交易服务的价格，最终导致消费者承担更高电价并延缓整个电力系统的绿色化进程。[（查看更多）](#)

### EU Commission Opens Investigation into Possible Abuse Behavior by the Power Exchange EPEX Spot SE

On March 30, 2021, the European Commission announced that it opened a formal investigation to assess whether the power exchange EPEX Spot SE (“EPEX Spot”) has been taking advantage of its dominant position on the market for electricity intraday trading facilitation services in at least six Member States. Intraday markets are the markets where the sellers and buyers of electricity can trade power in the last hours before it is injected into the network. They play an essential role for the safety of the network, but also for the efficient use of green technologies. The investigation will focus on concerns that EPEX Spot may have adopted behaviors aimed at foreclosing its competitors by curtailing the ability of their customers to access the entire liquidity of the intraday market. The behavior may distort the prices of intraday services and could ultimately lead to higher electricity prices for consumers and a slowdown in the greening of the electricity system. [\(More\)](#)

## FTC宣布放弃对高通垄断案提起上诉

2021年3月29日，FTC代理主席丽贝卡·凯莉·斯劳特就FTC放弃对高通垄断案进行上诉的决定发表评论称，“鉴于委员会在这一问题上面临的重大阻力，FTC将不会向最高法院申请审查第九巡回上诉法院在FTC诉高通公司案中的裁决。”斯劳特赞扬了FTC工作人员的表现，并认为上诉法院对高通公司是否违反反垄断法问题所做出的结论是错误的。斯劳特表示FTC及其他执法机构需要防范支配企业在包括在高科技市场和涉及知识产权的市场的滥用行为，FTC将密切关注在标准制定领域可能出现的反竞争或不公平行为。（[查看更多](#)）

## FTC Announces the Decision not to Petition for Review of Qualcomm Monopoly Case

On March 29, 2021, FTC's Acting Chairwoman Rebecca Kelly Slaughter issued a statement following FTC's decision not to petition for review of the Qualcomm case. She said: "Given the significant headwinds facing the Commission in this matter, the FTC will not petition the Supreme Court to review the decision of the Court of Appeals for the Ninth Circuit in *FTC v. Qualcomm*." Slaughter praised the performance of FTC staff, and believed that the court of appeals was wrong about whether Qualcomm violated the antitrust laws. Slaughter stated that FTC and other law enforcement agencies need to guard against abusive behavior by dominant firms, including in high-technology markets and those that involve intellectual property, and that FTC will closely monitor the potential for anticompetitive or unfair behavior in the context of standard setting. ([More](#))

## 欧盟委员会对企业合并审查程序进行评估

2021年3月26日，欧盟委员会发布了对欧盟企业合并审查程序和司法管辖权评估总结的工作文件。根据评估结果，欧盟委员会决定通过一份文件，为《欧盟企业合并控制条例》第22条中所规定的欧盟成员国与委员会之间管辖权的移送制度提供指导并启动下一阶段评估以探索未来政策目标与简化企业合并程序。此次评估主要集中在以下两部分：一是以营业额为基础的管辖阈值在筛查可能对国内市场竞争产生重大影响的经营集中方面的有效性；二是评估2013年以来采用的简化措施的有效性。（[查看更多](#)）

## EU Commission Announces Evaluation Results on Procedural Aspects of the EU Merger Control

On March 26, 2021, the European Commission published a Staff Working Document that summarises the findings of the evaluation of procedural and jurisdictional aspects of EU merger control. Following the results of the evaluation, the Commission decided to adopt a communication providing guidance on the application of the referral mechanism between Member States and the Commission set out of the *Merger Regulation*. The evaluation focused on two topics in particular: first, the effectiveness of the turnover-based jurisdictional thresholds in capturing concentrations which may have a significant impact on competition in the internal market, and second, the effectiveness of simplification measures introduced in 2013. ([More](#))

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