



NEWSLETTER

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By **Lifang & Partners**

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Domestic News

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](#))

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](#))

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](#))

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 “14th

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](#))

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](#))

Overseas News

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](#))

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](#))

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 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](#))

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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