



# NEWSLETTER

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## Weekly Competition Law News NO.111

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## Domestic News

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### **SAMR Fines Yangtze River Pharmaceutical CNY 764 Million for Implementing Monopoly Agreement**

On April 15, 2021, the State Administration for Market Regulation (“SAMR”) issued the administrative penalty decision against Yangtze River Pharmaceutical Group Co., Ltd. (“**Yangtze River Pharmaceutical**”). After investigation, from 2015 to 2019, Yangtze River Pharmaceutical established a price-setting committee within the company, formulated price policies, reached and implemented monopoly agreements with distributors at all levels and terminal retail entities to fix and restrict price, and take assessment and punishment measures to strengthen the implementation of such agreements. These behaviors severely eliminated and restricted market competition. In the end, SAMR ordered Yangtze River Pharmaceutical to stop illegal activities and imposed a fine of 3% of its sales in 2018, approximately CNY 764 million. ([More](#))

### **PBOC Holds a Video Conference on Payment and Settlement Work Addressing the Work of Antitrust in Payment Field**

On April 14, 2021, the People’s Bank of China (“PBOC”) held a 2021 payment and settlement work video conference, and proposed to strengthen antitrust in payment field, prevent the disorderly expansion of capital, and steadily promote the construction of the cross-border payment system. It is required during the meeting that in the next stage, PBOC should actively perfect the top-level design, deeply advance antitrust work in payment field and accelerate the construction of a cross-border payment system. ([More](#))

### **Three Departments Jointly Convenes an Administrative Guidance Meeting for Internet Platform Companies: Strictly Preventing Monopoly and Requiring Platform Companies to Conduct Comprehensive Self-Check and Self-Inspection**

On April 13, 2021, SAMR, together with the Cyberspace Administration of China and the State Taxation Administration, jointly held an administrative guidance meeting for internet platform companies. The meeting pointed out the problems such as the implementation of “either-or” and abuse of dominant position in the relevant markets. The meeting required all platform companies to conduct a comprehensive self-check and self-inspection within one month and disclose the *Commitment to Operate in Compliance with Laws* to the public for social supervision. The market regulation authorities will organize follow-up inspections for rectification. Representatives from 34 internet companies and relevant officers in charge of local administrations for market regulation attended the meeting. ([More](#))

### **An English Food Delivery Platform in Shanghai Fined CNY 1.16 Million for Implementing “Either-or”**

On April 12, 2021, the Shanghai Municipal Administration for Market Regulation (“**Shanghai AMR**”) issued a penalty decision against Shanghai Sherpa's Delivery & Service Co., Ltd (“**Sherpa’s**”). Sherpa’s is an internet food delivery platform, which mainly provides English food delivery service infor-

mation and delivery services. After investigations, Shanghai AMR found that from January of 2017 to October of 2019, Sherpa's took advantage of its dominant position in the service market of online food delivery platform that provides English services in Shanghai and restricted transaction through "either-or" and exclusive cooperation agreements without justifiable reasons. After comprehensive consideration, Shanghai AMR finally imposed a fine of 3% of Sherpa's 2018 sales, totaling CNY 1.1686 million. ([More](#))

### **First Antitrust Penalty for Internet Platform Company: Alibaba Case Analysis**

On 10 April 2021, SAMR issued the administrative penalty decision against Alibaba Group Holding Limited ("Alibaba") as well as administrative guidance opinions. SAMR found that Alibaba had abused its dominant position in China online retailing platform service market to eliminate and restrict competition in the relevant market, and ordered Alibaba to stop the illegal conduct and imposed a fine of CNY 18.228 billion. As the meantime, the administrative guidance opinions require Alibaba to propose rectification measures and annually submit self-inspection compliance report to SAMR in the following three years. This is the first "10 Billion Fine" issued by China antitrust authority, and the investigation period is far below the average antitrust investigation period. This is also the first time that administrative penalty and administrative guidance are issued simultaneously for a specific company. ([More](#))

## **Overseas News**

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### **House Judiciary Committee Passes the Final Report on Investigation of Competition in Digital Markets**

On April 14, 2021, the House Judiciary Committee passed the *Final Report on Investigation of Competition in Digital Markets*. The House Judiciary Committee Chairman Jerrold Nadler issued a statement, stating that "Today's digital markets are highly concentrated. The largest companies have morphed from being innovative startups into powerful gatekeepers. The Report also makes clear that the Antitrust enforcement agencies have been missing in action. Furthermore, the courts have incorrectly interpreted and applied the antitrust statutes in ways that run counter to Congress." Nadler proposed to modernize and reinvigorate antitrust law and enforcement, ensure that the Department of Justice and the Federal Trade Commission use all the tools at their disposal to fully and fairly enforce the law, and immediately provide the additional tools, staff and resources that agencies need. ([More](#))

### **U.S. Court of Appeals for the Fifth Circuit Upholds FTC's Opinion against Generic Pharmaceutical Company Impax Laboratories, LLC**

On April 13, 2021, the U.S. Court of Appeals for the Fifth Circuit upheld the Federal Trade Commission ("FTC")'s penalty decision against Impax Laboratories, LLC ("Impax") for implementing a reverse payment agreement. In 2017, FTC filed an administrative complaint against Impax, charging that in 2010, Impax and Endo Pharmaceuticals Inc. ("Endo") illegally agreed that Impax would not compete by marketing a generic version of Endo's Opana ER until January 2013. In exchange, Endo

paid Impax more than USD 112 million. In the January of 2021, FTC charged again. This time, the U.S. Court of Appeals for the Fifth Circuit upheld FTC's determination. ([More](#))

### **JFTC Issues Special Feature on the New System under the Amended Antimonopoly Act**

On April 13, 2021, the Japan Fair Trade Commission (“JFTC”) issued the Special Feature on the New System under *the Amended Antimonopoly Act*. *The Amended Antimonopoly Act* revised the surcharge system, the leniency program and determination procedures. The revised surcharge system includes an addition of the basis for the calculation and a revision of the calculation rate. The new leniency program introduced adding reduction rates according to the degree of enterprises' cooperation in revealing the case. At the same time, from the perspective of making the new leniency program more effective while substantially protecting confidential legal advice, and ensuring the appropriateness of administrative investigation procedures, the determination procedures in the administrative investigation procedures were newly introduced. ([More](#))

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