



NEWSLETTER

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Domestic News

SAMR Holds a Special Meeting on the Rectification and Regulation of Internet Platform Companies

On May 7, 2021, the State Administration for Market Regulation (“SAMR”) held a special meeting on the rectification and regulation of internet platform companies. The meeting pointed out that the relevant provincial (municipal) market regulation administration should immediately launch a mid-term supervision on 34 platform companies, comprehensively inspect platform companies’ implementation of the rectification requirements of the administrative guidance meeting on April 13, and evaluate the results to ensure that the high-quality rectification of prominent problems like “either-or” can be achieved within the time limit. In the next step, SAMR will continue to promote the rectification of platform companies, conduct extensive inspections on platform companies with prominent problems, and impose severe punishments on the platform companies that are still conducting illegal behaviors. ([More](#))

SAMR Issues the Penalty Decision against Tianjin Tianyao and Other Companies

On April 30, 2021, SAMR issued the administrative penalty decisions against Tianjin Tianyao Pharmaceutical Co., Ltd. (“**Tianjin Tianyao**”) and other two companies. It was investigated that Tianjin Tianyao and Tianjin Pacific Chemical Pharmaceutical Co., Ltd. used to frequently communicate, and reached and implemented monopoly agreements dividing market and fixing the active pharmaceutical ingredients prices for three times. Shenzhen Fuhaitong Pharmaceutical Co., Ltd. participated in the third monopoly agreement and formed a supervision team with two other companies to supervise the implementation of the monopoly agreement. After comprehensive consideration, SAMR imposed fines of CNY 44 million, 5.2 million, and 1.54 million on these three companies respectively. ([More](#))

SAMR Issues Penalty Decisions of Nine Gun-Jumping Cases

On April 30, 2021, SAMR issued administrative penalty decisions of nine gun-jumping cases in the internet sector, involving various areas such as online car-hailing services, online food delivery services, automobiles, online fresh food sales, online retails and medical big data. Well-known companies such as Didi, Wanda and Meituan are involved. Each of these involved companies was fined with a top penalty of CNY 500,000. ([More](#))

SAMR Investigates Meituan for “Either-or” Behavior

On April 26, 2021, SAMR issued a press release stating that, according to relevant complaints, it had recently initiated investigations into Meituan’s suspected monopolistic behaviors such as “either-or” in accordance with the law. Meituan responded on the same day that it will actively cooperate with the investigation by the authorities. Previously on September 5, 2019, Ele.me filed a lawsuit before Zhejiang Jinhua Intermediate People’s Court against Meituan, claiming that Meituan’s behaviors such as “either-or” violated the *Anti-Unfair Competition Law*. On February 28, 2021, Zhejiang Jinhua Intermediate People’s Court issued the first-instance judgment and fully supported the CNY 1 million economic loss claimed by Ele.me. ([More](#))

SPC Releases Summary of Annual Report on Intellectual Property Cases

On April 26, 2021, the Supreme People's Court ("SPC") released the summary of annual report on intellectual property cases (2020). In 2020, SPC totally accepted 5,390 new cases, of which 31 were monopoly cases. In one of the monopoly cases, SPC pointed out that the implementer of a horizontal monopoly agreement is not entitled to claim compensation from other implementers for its alleged economic loss resulting from the implementation of the horizontal monopoly agreement. ([More](#))

SPC: Properly Handling Antitrust Disputes in the Internet Sector and Perfecting the Antitrust Judicial Rules for Platform Economy

On April 22, 2021, SPC issued the *People's Court's Judicial Protection Plan for Intellectual Property Rights (2021-2025)* ("**Plan**"). According to the *Plan*, during the 14th Five-Year period, the People's Courts will strengthen the adjudication of antitrust cases, strengthen the fundamental position of competition policy, formulate relevant judicial interpretations timely, prohibit various types of monopolistic behaviors, eliminate market foreclosure and promote fair competition. The People's Courts will also properly handle monopoly disputes in the internet sector, perfect the antitrust judicial rules for platform economy, prevent the disorderly expansion of capital, and promote the standardized, healthy and sustainable development of platform economy. ([More](#))

Overseas News

EU Commission Plans to Revise Horizontal Block Exemption Regulations and the Horizontal Guidelines

On May 6, 2021, the European Commission published a statement stating that it had published a Staff Working Document that summarized the findings of the evaluation of two horizontal block exemption regulations ("**HBERS**") and the *Horizontal Guidelines*. The findings showed that the HBERS and the Horizontal Guidelines provide legal certainty to businesses with respect to their horizontal cooperation agreements and they simplify administrative supervision by the Commission, the national competition authorities and national courts. Besides, the evaluation also identified some areas such as digitization and the pursuit of sustainability goals where their effectiveness need to be improved. Next the Commission will launch an impact assessment phase of review to look into the issues identified during the evaluation. The revised new rules will be in place by December 31, 2022. ([More](#))

EU Commission Sends Statement of Objections to Apple for Abuse of Dominance

On April 30, 2021, the European Commission issued a statement, stating that it had informed Apple of its preliminary view that Apple distorted competition in the music streaming market as it abused the dominant position for the distribution of music streaming apps through Apple's App Store. The Commission took issue with the mandatory use of Apple's own in-app purchase mechanism imposed on music streaming developers to distribute their apps via Apple's App Store. The Commission also concerned that Apple applies certain restrictions on app developers preventing them from informing iPhone and iPad users of alternative, cheaper purchasing possibilities. ([More](#))

Autorité de la Concurrence Issues its Opinions on Digital Payment

On April 29, 2021, Autorité de la concurrence issued its opinions on digital payment. After the investigation, the authority considered that technological innovation and changes in regulations have enabled the arrival in the payments sector of new players, Fin Techs and Big Techs, which have developed innovative payment methods and new diversified services for consumers. For example, large Big Techs platforms develop the services using the name of the company. The platform-type actors have considerable data and technology advantages, and have the capacity to draw significant profits without being subjected to the regulatory constraints weighing on banking players. This development may upset the competitive balances that have until now been in place in the payment sector. ([More](#))

FAS Fines Apple USD 12 Million for Alleged Market Abuse

On April 27, 2021, the Federal Antimonopoly Service of the Russian Federation (“FAS”) announced that it had fined Apple USD 12 million for alleged abuse of its dominance in the mobile applications market. Previously, the cybersecurity company Kaspersky Lab complained to FAS, claiming that a new version of its Safe Kids application had been declined by Apple’s operating system. In August 2020, after investigation, FAS determined that Apple had abused its dominant position and then issued a directive requiring Apple to remove provisions giving it the right to reject third-party apps from its App Store. ([More](#))

AFCA Files Applications Against 11 Companies in Construction Cartel

On April 22, 2021, the Austrian Federal Competition Authority (“AFCA”) issued a statement, stating that after filing applications to impose fines on 4 companies for implementing cartel in the October of 2020, AFCA had filed another application to impose fines on seven other companies for the same behavior on April 9, 2021. After investigation, AFCA found that from 2002 to 2017, in order to help each other obtain contracts, to reduce uncertainties relating to their future business conducts and thereby to secure or increase their market shares and profits, more than 40 construction companies fixed prices, divided up customers and markets, and exchanged competitively sensitive information. Once found to have breached the rules banning cartels, these entities may face fines of up to 10% of their total turnover recorded in the preceding business year. ([More](#))

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