



# NEWSLETTER

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## Weekly Competition Law News

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**By Lifang & Partners**

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## Domestic News

### SAMR Issues Penalty Decisions on Twenty-two Cases of Gun-jumping in the Internet Field

On July 7, 2021, the State Administration for Market Regulation (“SAMR”) made administrative penalty decisions on twenty-two cases of gun-jumping in the Internet field in accordance with the law. It was found that all the twenty-two cases violated Article 21 of the *Anti-Monopoly Law* and constituted illegal implementation of concentration. In accordance with Article 48 and 49 of the *Anti-Monopoly Law*, the SAMR imposed fines of CNY 500,000 on the enterprises involved in the cases respectively. ([More](#))

### Five Departments Jointly Issue Rules for the Implementation of the Fair Competition Review System

On July 9, 2021, the SAMR and four other departments jointly issued the *Implementation Rules of the Fair Competition Review System* (“**Rules**”), which stipulates review mechanism and procedures, review criteria, third-party assessment, and supervision and accountability and other aspects in detail. The *Rules* have greater overall planning, higher review standards, and stricter supervision and assessment, and they make detailed provisions on market access and exit criteria, such as ‘without the basis of laws, administrative regulations or regulations of the State Council, no unreasonable or discriminatory market access and exit conditions could be set; no operator shall be authorized to franchise before fair competition’, etc. ([More](#))

### Henan AMR Corrects the Administrative Monopoly Conduct by Luoyang Urban Management Bureau

On July 2, 2021, Henan Province Administration of Market Regulation (“**Henan AMR**”) issued a notice on correcting the abuse of administrative power by the Luoyang Urban Management Bureau to exclude and restrict competition in accordance with the law. It was found that the Luoyang Urban Management Bureau required three bike-sharing companies to share the parking management of shared bicycles with the sanitation departments of the districts and Henan Dust Control Company. In March 2020, the Luoyang Urban Management Bureau identified Shanghai Junzheng Network Technology Co., Ltd. as the only operating company of bike-sharing in the urban area of Luoyang City by way of bidding, and agreed in the "Bike-sharing Management and Service Cooperation Agreement" signed by both parties that "After the expiration of the term, Party A will give priority to Party B under the same conditions when bidding again". The unsuccessful bidders were required to unconditionally withdraw from the geographical market of Luoyang within ten days after the end of the bidding. The above actions violated the provisions of Article 32 and 37 of the *Anti-Monopoly Law*. Therefore, Henan AMR issued an administrative proposal to the Luoyang Municipal People's Government, recommending that it to order the Luoyang Urban Management Bureau to rectify the relevant behaviors and resume the fair competition review of the relevant market. ([More](#))

### SAMR Amends Two Regulations Related to Administrative Penalty Procedures to Regulate Anti-Trust Enforcement

On July 6, 2021, the SAMR issued a circular, deciding to amend some of the provision of the Interim

Provisions on Administrative Punishment Procedures of Market Supervision and Administration ("Procedural Provisions") and the Hearing on Administrative Punishment of Administration of Market Regulation Provisional Measures aiming at standardizing administrative law enforcement and penalty procedures. Among them, the Procedural Provisions revise the enforcement period to be calculated on the basis of working days; increase the provision of off-site jurisdiction, which stipulates that higher market supervision departments have the right to directly investigate and handle cases belonging to the jurisdiction of lower departments, and may also designate other lower departments to have jurisdiction, which is conducive to solving the investigation difficulties of cross-regional Internet monopoly cases. ([More](#))

### **The Shenzhen Special Economic Zone Data Regulations Published to Protect Competition in the Market for Data Elements**

On July 6, 2021, the Standing Committee of the Shenzhen People's Congress announced the *Shenzhen Special Economic Zone Data Regulations* ("**Regulations**"), which will come into effect on January 1, 2022. The *Regulations* are the first comprehensive legislation in the field of data in China, which stipulates data access, data processing, data competition and other aspects. Article 70 of the *Regulations* clarifies that market players shall not exclude or restrict competition by entering into monopoly agreements, abuse the dominant position in the data elements market, or unlawfully implement concentration, etc. This article links with the *Anti-Monopoly Law* and innovatively introduces the concept of "data elements market", which is conducive to regulating data competition. ([More](#))

## **Overseas News**

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### **36 U.S. States and Washington, D.C. Sue Google for Antitrust Violations**

On July 7, 2021, thirty-six U.S. states and Washington, D.C. filed a joint lawsuit against Google alleging antitrust violations. Google reportedly plans to collect a 30 percent commission from App developers in its App store. The suit alleges that Google excludes potential competitors in the distribution market of Android App through exclusive contracts, technical barriers and "misleading" security warnings. This practice limits developers' choices and forces them to raise prices, ultimately to the detriment of consumers. ([More](#))

### **KFTC Launches Antitrust Investigation of Domestic E-Commerce Giant Coupang**

On July 4, 2021, it was reported that the Korea Fair Trade Commission ("KFTC") has launched an anti-trust investigation against domestic e-commerce giant Coupang and, at the end of last month, conducted a field investigation at Coupang's headquarters office. Coupang is reportedly facing several charges, including interfering with the operation of search algorithms on its platform so that its own-brand products are displayed at the top of the page while other companies' products are pushed to the bottom, thereby gaining less exposure; threatening suppliers with the cheapest possible prices; forcing suppliers to buy ads and "bundling" ad subscriptions with mail delivery services "retaliation by refusing to provide postal services. ([More](#))

## **FTC Charges Broadcom with Unlawful Monopolization and Orders it to Stop Anti-competitive Conduct**

On July 2, 2021, the Federal Trade Commission ("FTC") filed suit alleging that Broadcom engaged in exclusive dealing in the market for semiconductor components. Broadcom allegedly unlawfully maintained its monopoly in the relevant markets by entering into long-term agreements with OEMs and broadband service providers to restrict these customers from purchasing chips from its competitors. In addition, Broadcom used its monopoly position in the relevant markets to require customers to make exclusive and loyal commitments that prevented its competitors from competing for their business. The Commission also issued a proposed commitment order under which Broadcom is prohibited from entering into certain types of exclusivity agreements with customers and must also cease conditioning the provision of exclusivity or loyalty agreements on the provision of relevant chips, restricting customers' access to those chips or requiring favorable terms of supply, and Broadcom is prohibited from retaliating against customers who deal with its competitors. ([More](#))

## **CMA Consults on Whether to Conduct Market Research on Motorola's Radio Network**

On July 8, 2021, the UK's Competition and Markets Authority ("CMA") asked for comments on whether to conduct a market investigation into Motorola's radio network. The CMA expressed concern about Motorola's dual role as both the owner of the company that currently provides the mobile radio network (Airwave Solutions) and as a key provider of the planned new "emergency network service" (ESN). The UK government is concerned that Motorola's Airwave business could undermine its incentives to provide ESN and increase the price of wireless network provision, to the detriment of taxpayers. The CMA offered two possible solutions in its request for proposals: one was to regulate Motorola's rate of return on the Airwave network; the other was to require Motorola to sell the Airwave network. ([More](#))

## **BMW, VW Fined Euro 870 Million by EU for Cartel**

On July 8, 2021, the European Commission fined Daimler, BMW and Volkswagen Group Euro 870 million for collusion and conspiracy to impair technology development in the field of nitric oxide cleaning in violation of EU competition law. Daimler was granted full immunity for disclosing cartel conduct to the European Commission. The investigation found that Daimler, BMW, and Volkswagen Group entered into a cartel agreement to restrict technology development, conspired to avoid uncertainty about future markets for technologies more advanced than those required by law, and restricted competition in consumer-related products. ([More](#))

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