



立方竞争法周报

Weekly Competition Law News

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滥用市场支配地位限定交易，山西一燃气公司被罚没164.3万

2020年7月24日，国家市场监督管理总局（“市场监管总局”）公布了由山西省市场监督管理局（“山西省市监局”）就山西建科天然气科技股份有限公司（“建科公司”）滥用市场支配地位行为作出的处罚决定书，对建科公司没收违法所得29.72万元，并处2018年度销售额2%的罚款134.58万元，罚没款总计164.3万元。调查发现，建科公司滥用其在盂县行政辖区范围内城市管道天然气供应服务市场的支配地位，没有正当理由限定房地产开发企业新建住房管道天然气安装工程只能与其交易、限定工程所需施工材料由其提供等行为。（[查看更多](#)）

Shanxi AMR Fines A Gas Supplier CNY 1.643m for Abuse of Dominance

On July 24, 2020, China's State Administration for Market Regulation (“SAMR”) released a sanction decision made by the Administration for Market Regulation of Shanxi Province (“Shanxi AMR”) in which Shanxi AMR confiscated the illegal gains of and levied fines on Shanxi Jianke Natural Gas Technology Co., Ltd. (“Jianke”) for abuse of dominance. The confiscated illegal gains and fines totaled CNY 1.643m. Shanxi AMR found that Jianke abused its dominant market position in the city pipeline natural gas supply service market in the area of Yu County by restricting real estate development companies to transact exclusively with Jianke on pipeline natural gas installation for new residential constructions and the materials supply without any justifications. ([More](#))

江苏省市监局终止调查盐城新奥公司垄断案

2020年7月24日，市场监管总局公布了由江苏省市场监督管理局（“江苏省市监局”）作出的盐城新奥燃气有限公司（“盐城新奥公司”）滥用市场支配地位垄断案终止调查决定。2015年12月，执法机构就盐城新奥公司涉嫌在办理用户管道燃气开户业务中附加不合理交易条件的行为立案进行调查。随后，执法机构根据盐城新奥公司的申请于2019年2月20日就此案作出中止调查决定并根据盐城新奥公司的整改承诺履行状况于近日决定终止调查。（[查看更多](#)）

Jiangsu AMR Terminates Antitrust Probe into Yancheng ENN

On July 24, 2020, SAMR published the decision on the termination of investigation issued by the Administration for Market Regulation of Jiangsu Province (“Jiangsu AMR”) in which the antitrust investigation into the suspected abuse of dominance of Yancheng ENN Gas Co., Ltd. (“Yancheng ENN”) was terminated. In December of 2015, the antitrust regulator launched a formal investigation against Yancheng ENN because of the suspected unreasonable transaction terms in the pipeline gas services contracts. After that, the antitrust regulator decided to suspend the investigation on February 20, 2019, upon Yancheng ENN's application and recently decided to terminate the investigation after considering the implementation of the rectification commitment proposed by Yancheng ENN. ([More](#))

甘霖出席金砖国家反垄断政策协调委员会视频会议

2020年7月23日，市场监管总局副局长甘霖出席金砖国家反垄断政策协调委员会视频会议，并介绍了2021年将在中国召开的第七届金砖国家竞争大会筹备工作。会议发布了《金砖国家竞争机

构应对新冠肺炎疫情联合声明》，就进一步深化金砖国家竞争领域合作、共同应对新冠肺炎疫情带来的经济挑战表明立场。 ([查看更多](#))

Vice Minister of SAMR Attends BRICS Coordination Committee on Antimonopoly Policy Webinar

On July 23, 2020, Ms. Gan Lin, the vice minister of SAMR, attended the BRICS Coordination Committee on Antimonopoly Policy's webinar and introduced the preparatory work for the 7th BRICS International Competition Conference to be hosted in China in 2021. During the webinar, the heads of BRICS competition authorities issued the *Joint Statement of BRICS Competition Authorities on COVID-19 Pandemic*, which expresses the standpoints of strengthening in-depth cooperation in the competition field of BRICS and jointly dealing with the economic challenges of COVID-19. ([More](#))

国务院办公厅：加大对原料药、进口药等垄断违法行为的执法力度

2020年7月23日，国务院办公厅发布《关于印发深化医药卫生体制改革2020年下半年重点工作任务的通知》（“《通知》”）。《通知》提出，要做好短缺药品保供稳价工作并加大对原料药、进口药等垄断违法行为的执法力度。执法工作具体由工业和信息化部（“工信部”）、国家卫生健康委员会、市场监管总局等分别负责。 ([查看更多](#))

China to Further Strengthen the Enforcement Against Unlawful Monopoly Behaviors Related to APIs and Imported Drugs

On July 23, 2020, the General Office of the State Council issued the *Notice on Promulgation of Key Tasks for Deepening the Reform of Medical and Health Sectors in the Second Half Year of 2020* (“Notice”). The Notice underlines that the supply and price of medicines in short supply shall be stabilized, and it is necessary to further strengthen the enforcement of unlawful monopoly behaviors concerning active pharmaceutical ingredients (“APIs”) and imported drugs. The burden of enforcement in these fields is shared respectively by Ministry of Industry and Information Technology (“MIIT”), National Health Commission, SAMR, etc. ([More](#))

最高院、国家发改委：加强反垄断审判工作，恪守竞争中性原则

2020年7月22日，最高人民法院、国家发展和改革委员会联合发布了《关于为新时代加快完善社会主义市场经济体制提供司法服务和保障的意见》（“《意见》”）。《意见》指出，要加强反垄断审判工作。准确把握法律标准，恪守竞争中性原则，综合运用各类评估方法，建立健全第三方审查和评估机制，依法判断竞争行为的正当性，及时制止垄断行为，提高违法成本，引导市场主体诚信公平有序竞争，增强市场竞争活力。 ([查看更多](#))

SPC and NDRC: Strengthening the Trial of Monopoly Dispute Cases and Complying with Competitive Neutrality Principle

On July 22, 2020, the Supreme People's Court (“SPC”) and National Development and Reform Commission (“NDRC”) jointly issued the *Opinion on Providing Judiciary Services and Safeguards for Accelerating the Improvement of the Socialist Market Economy System in the New Era* (“Opinion”). The

Opinion points out that, to improve the trial of monopoly dispute cases, it is necessary to (i) accurately comprehend relevant legal norms; (ii) comply with the competitive neutrality principle; (iii) comprehensively utilize different kinds of evaluation methods; (iv) establish and improve the third-party review and assessment mechanisms; (v) judge the legitimacy of competition behaviors by laws; (vi) prevent monopoly behaviors in time; (vii) raise the costs of unlawful conduct; (viii) guide undertakings to compete fairly and faithfully; and (ix) to enhance the vitality of the market competition. ([More](#))

市场监管总局就修改《关于禁止滥用知识产权排除、限制竞争行为的规定》等规章征求意见

2020年7月21日，市场监管总局发布《关于修改部分规章的决定（征求意见稿）》（“《决定草案》”），拟对《关于禁止滥用知识产权排除、限制竞争行为的规定》（“《规定》”）等规章进行修改。《决定草案》拟删去《规定》第三条第一款中的“（价格垄断行为除外）”，在第十四条中增加一款作为第二款：“本规定所称反垄断执法机构包括国家市场监督管理总局和各省、自治区、直辖市市场监督管理部门。”此外，《决定草案》还拟对《规定》中包含的相关机构名、文件名进行修改。 ([查看更多](#))

SAMR Seeks Comments on Draft Amendment of the Provisions on Prohibition of Abusing Intellectual Property Rights to Eliminate and Restrict Competition

On July 21, 2020, SAMR released the *Decision on the Amendments of Several Regulations (Exposure Draft)* (“**Draft Decision**”), which includes the proposed amendments to the *Provisions on the Prohibition of Abusing Intellectual Property Rights to Eliminate and Restrict Competition* (“**Provisions**”). The proposed amendments to the Provisions including delete “(except for price monopoly)” in Article 3 (A), add a new clause as Article 14 (B): “The anti-monopoly enforcement agencies referred to in the Provisions shall include SAMR and the provincial market regulatory departments”, and amend the name of relevant agencies and documents. ([More](#))

国务院办公厅：严禁平台企业滥用市场支配地位收取不公平的高价服务费

2020年7月21日，国务院办公厅发布《关于进一步优化营商环境更好服务市场主体的实施意见》（“《意见》”）。《意见》指出，要降低小微企业等经营成本。鼓励引导平台企业适当降低向小微商户收取的平台佣金等服务费用和条码支付、互联网支付等手续费，严禁平台企业滥用市场支配地位收取不公平的高价服务费。执法工作由市场监管总局、中央网信办、工信部等相关部门及各地区按职责分工负责。 ([查看更多](#))

State Council Prohibits Platform Enterprises from Abusing Market Dominance to Charge Unfairly High Service Fees

On July 21, 2020, the General Office of the State Council released the *Implementation Opinions on Further Optimizing Business Environments to Better Serve Market Entities* (“**Opinions**”). The Opinions underlines that the operating costs for small and micro enterprises shall be reduced. The Opinions also points out that it is necessary to encourage and guide platform enterprises to appropriately reduce platform commissions, bar code fees, online payment fees and other service fees charged to small and micro enterprises, prohibit platform enterprises from abusing market dominance to charge unfairly high ser-

vice fees. The burden of enforcement in these fields is shared respectively by SAMR, Cyberspace Administration of China, MIIT, etc. ([More](#))

国办督查室通报：山东潍坊一协会借用行政权力垄断相关业务并收费敛财

2020年7月21日，国务院办公厅督查室发布《关于山东省潍坊市住建局等单位和协会违规开展职业资格许可认定和评比表彰并大肆收费敛财等问题的督查情况通报》（“《通报》”）。《通报》指出，潍坊市住房和城乡建设局及其下属事业单位与潍坊市建设工程质量安全协会利用行政权力垄断相关职业培训发证业务以及铭牌制作业务。山东省政府正组织有关方面严肃查处和全面整改。（[查看更多](#)）

State Council Condemns the Administrative Monopolies in Weifang City, Shandong Province

On 21 July 2020, the Inspection Department of the General Office of the State Council condemned the administrative monopolies in Weifang City, Shandong province. According to the inspection, the Bureau of Housing and Urban-Rural Development in Weifang and its subordinate institutions along with the Weifang Construction Engineering Quality and Safety Association abused their administrative powers and monopolized the business of issuing professional qualifications and of making labels. In response, Shandong Government is organizing relating agencies to investigate and rectify. ([More](#))

海外动态 Overseas News

法国竞争管理局发布2020年并购控制指南

2020年7月23日，法国竞争管理局发布了新版《并购控制指南》。新版指南吸取了自2013年以来法国竞争管理局和判例法的经验，明确了不太可能引起竞争关注的交易类型以及法国竞争管理局应在申报提交后10个工作日内就申报文件的完整性作出答复。该指南旨在为企业及其律师在并购控制审查范围、法国竞争管理局工作流程等方面提供指导性说明。（[查看更多](#)）

The Autorité de la concurrence Publishes Its New Merger Control Guidelines

On July 23, 2020, the Autorité de la concurrence published its new merger control guidelines. Considering the experience of the Autorité and case law since 2013, the guidelines identify transactions which are not, *a priori*, likely to give rise to competition concerns and require the Autorité to ensure that a response regarding the completeness of the notification files is usually provided within ten working days of the notification. The purpose of these new guidelines is to provide companies and their lawyers with an educational presentation on the scope of merger control in France and the conduct of the procedure before the Autorité. ([More](#))

意大利反垄断执法机构对苹果、亚马逊涉嫌限制销售行为展开反垄断调查

2020年7月22日，据彭博社报道，意大利反垄断执法机构称其已对苹果和亚马逊展开反垄断调查，理由是两公司涉嫌限制当地经销商销售苹果旗下Beats产品。调查认为，两公司无正当理由

的限制销售行为，导致诸多合法经营的非官方授权经销商被迫退出当地亚马逊销售市场，降低了经销商在苹果产品和Beats耳机价格方面进行有效竞争的动力。据悉，意大利对苹果、亚马逊开展反垄断调查的同时，两公司也正遭到欧盟监管机构的深入调查。（[查看更多](#)）

Apple, Amazon Offices Raided by Italy Antitrust Agency for Curbing the Sales

On July 22, 2020, it was reported by *Bloomberg* that Italy's antitrust authority said it was investigating Apple Inc. and Amazon.com Inc. because these two companies were suspected of unfairly curbing the sale of the iPhone maker's Beats products by anyone other than members of its official reseller program. The authority said in a statement that many retailers had been removed from Amazon's local marketplace as a result of the curbing behavior of these two companies, which could lower the incentives for efficient competition on the prices of Apple and Beats products. It was reported that the Italian probe comes as both companies are facing in-depth scrutiny from the European Union's antitrust authority in areas central to their business. ([More](#))

立方律师事务所编写《立方观评》的目的仅为帮助客户及时了解中国法律及实务的最新动态和发展，上述有关信息不应被看作是特定事务的法律意见或法律依据，上述内容仅供参考。



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