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## 国内要闻 Domestic News

### 北京市高级人民法院：规制垄断行为，优化营商环境

2020年7月30日，北京市人民代表大会常务委员会网站公布了《北京市高级人民法院发布关于优化营商环境工作情况的报告》（“《报告》”），包含规制垄断行为等多项内容。《报告》指出，北京市各级人民法院将严格依据相关竞争法律法规，规制各类垄断行为，妥善处理破坏市场竞争规则的案件，充分发挥司法裁判对公平竞争市场环境的维护和指引作用。（[查看更多](#)）

### Beijing Courts to Regulate Monopoly Behaviors and Optimize Business Environment

On July 30, 2020, the website of the Standing Committee of the Beijing Municipal People's Congress released the *Report of the Beijing High People's Court on the Work of Optimizing Business Environment*. The Beijing High People's Court pointed out that the Beijing courts would regulate various monopoly behaviors strictly in accordance with relevant competition laws and regulations, properly deal with the cases that violate market competition rules, and give full play to the function of judicial judgment in maintaining and guiding the fair competition market environment. ([More](#))

### 上海市市监局发布8份听证公告，旅游行业协会涉嫌组织达成垄断协议

2020年7月29日，上海市市场监督管理局（“上海市市监局”）发布了8份听证公告。根据公告，上海市市监局拟对上海市旅游行业协会及相关企业涉嫌垄断协议一案作出相应行政处罚。根据该协会及7家旅游公司的申请，上海市市监局决定于8月10日、11日举行听证。（[查看更多](#)）

### Shanghai AMR to Hold Hearings on Penalties against Tourist Association and Companies

On July 29, 2020, the Administration for Market Regulation of Shanghai Municipality (“Shanghai AMR”) issued eight hearing announcements. According to the announcements, the Shanghai AMR planned to impose corresponding administrative penalties on the Shanghai Tourism Trade Association and related enterprises for their alleged participation in monopoly agreements and decided to hold hearings on August 10 & 11 upon applications by the association and 7 tourism companies. ([More](#))

### 固定二手车交易服务费并划分市场，湖北黄冈三企业领反垄断罚单

2020年7月29日，国家市场监督管理总局（“市场监管总局”）公布了由湖北省市场监督管理局查处的一起二手车交易市场企业垄断案。黄冈市蓝天旧机动车交易市场有限公司、黄冈奥捷旧机动车交易市场有限公司和黄冈市发达旧机动车交易市场有限公司因达成并实施横向垄断协议，划分黄冈市二手车交易市场并固定二手车交易服务费，被处2018年度销售额4%的罚款，共计约19.5万元。（[查看更多](#)）

## Hubei AMR Fines Three Used Car Trading Market Operators for Collusion

On July 29, 2020, China's State Administration for Market Regulation ("SAMR") issued a monopoly case related to the used car trading market investigated by the Administration for Market Regulation of Hubei Province ("Hubei AMR"). The Hubei AMR found that Huanggang Lantian Used Car Trading Market Co., Ltd., Huanggang Aojie Used Car Trading Market Co., Ltd., and Huanggang Fada Used Car Trading Market Co., Ltd. had reached and implemented a horizontal monopoly agreement to divide the used car trading market in Huanggang and fix the transaction service fee for used cars. The three enterprises were fined 4% of their turnover in 2018, totally about CNY 195,000. ([More](#))

## 罚没241.66万元！山西一燃气公司因垄断天然气安装工程及施工材料被处罚

7月27日，市场监管总局公布了由山西省市场监督管理局查处的一起燃气公司垄断案。忻州市燃气有限公司因滥用市场支配地位无正当理由限定工程所需施工材料由其提供等行为，被处没收违法所得112.84万元，并处2018年度销售额2%的罚款128.82万元，罚没款总计241.66万元。（[查看更多](#)）

## Shanxi AMR Fines A Gas Company CNY 2.4m for Abuse of Dominance

On July 27, 2020, the SAMR released a gas company monopoly case investigated by the Administration for Market Regulation of Shanxi Province ("Shanxi AMR"). Xinzhou Gas Co., Ltd. was confiscated illegal gains and levied fines, totaled about CNY 2.4m, due to abusing its dominant market position to restrict the construction materials required for the project without any justifications and other abusive behaviors. ([More](#))

## 汕尾市政府行政垄断案入选最高院产权保护行政诉讼典型案例

2020年7月27日，最高人民法院（“最高院”）首次集中发布涉产权保护行政诉讼典型案例，包含汕尾市真诚公共汽车运输有限公司诉汕尾市人民政府（“汕尾市政府”）排除、限制竞争案等9起案件。广东省高级人民法院二审认为，汕尾市政府就该市公共交通经营权及公共站场土地使用权问题，提前指定独家特许经营，违反了由市场竞争机制来确定经营者的相关规定，属于滥用行政权力排除市场原有同业竞争者的行为。（[查看更多](#)）

## Shanwei Government's Administrative Monopoly Case Selected as SPC's Typical Case of Administrative Litigation Involving Property Rights Protection

On July 27, 2020, the Supreme People's Court ("SPC") collectively released typical cases of administrative litigations involving property rights protection for the first time. *Shanwei Zhencheng Bus Transportation Co., Ltd. v. Shanwei Government* was selected as one of nine typical cases. The Guangdong High People's Court held in the second instance that the Shanwei Government's appointment of the exclusive undertakings in advance with regard to management rights of the city's public transportation and the use rights of public land violated relevant regulations that undertakings should be determined by market competition mechanism, and consequently constituted the abuse of administrative power which excluded existing competitors out of the market. ([More](#))

## 海南就公平竞争条例草案征求意见，拟设立公平竞争委员会

近日，海南省市场监督管理局公布《海南自由贸易港公平竞争条例（征求意见稿）》。条例草案共50条，包括总则，公平竞争审查，滥用行政权力排除、限制竞争行为，垄断行为，不正当竞争行为，监督检查、调查，法律责任，附则8章。根据该草案，海南拟设立公平竞争委员会。草案还规定了建立竞争评估制度，定期开展市场竞争状况专项评估。征求意见截止日期为2020年7月31日。（[查看更多](#)）

### Hainan Seeks Comments on Draft Regulations on Fair Competition

Recently, the Administration for Market Regulation of Hainan Province released the *Regulations of Hainan Free Trade Port on Fair Competition (Draft Exposure)* (“**Draft Regulations**”). The Draft Regulations consists of 50 articles under the following eight chapters: (i) general provisions; (ii) fair competition review; (iii) abuse of administrative power to exclude and restrict competition; (iv) monopolistic behaviors; (v) unfair competition; (vi) supervision, inspection and investigation; (vii) legal liability; and (viii) supplementary provisions. The Draft Regulations proposes for the establishment of a fair competition committee in the free trade port, and also stipulates that the free trade port shall establish competition evaluation system and conduct special evaluations of market competition on a regular basis. The deadline for submitting comments is July 31, 2020. ([More](#))

## 海外动态 Overseas News

### 欧盟委员会拟就平台竞争政策问题与美国加强合作

2020年7月30日，据EURACTIV报道，在美国国会众议院司法委员会反垄断、商业及行政法小组委员会就四大科技巨头举行听证会之前，欧盟委员会负责竞争政策的执行副主席玛格丽特·维斯塔格（Margrethe Vestager）曾向其提交一份陈述，表达了欧盟委员会就平台竞争政策问题与美国加强合作的期望。根据该陈述，欧盟正在就相关问题研究竞争政策上可能的解决方案，包括坚持竞争执法、对数字平台进行事前监管、探索新的竞争工具等。（[查看更多](#)）

### European Commission to Strengthen Cooperation with the US in Platform Competition Policy

On July 30, 2020, EURACTIV reported that before a hearing with Big Tech giants held by the US House Judiciary Subcommittee on Antitrust, Commercial and Administrative Law, European Commission Executive Vice President Margrethe Vestager submitted a statement to the US subcommittee and highlighted how the European Commission would welcome greater alignment between the US and the EU in platform competition policy. According to the statement, the European Commission was studying potential solutions in competition policy in terms of relevant issues, including continued competition law enforcement, ex-ante regulation of digital platforms, and a possible new competition tool. ([More](#))

### 德国反垄断机构发布竞争双年度报告：针对数字平台制定规则，规制国家补贴

2020年7月29日，德国反垄断机构发布《双年度报告23：竞争2020》（Biennial Report XXIII: Competition 2020，“《报告》”）。《报告》重点关注三方面问题：（1）在新冠疫情期间，应



继续坚持竞争法的适用不向实体法妥协，各国在实施可能会扭曲竞争的企业救助方案的同时应采取促进竞争的弥补措施；（2）在欧盟层面上对具有市场支配地位的数字平台制定规则，以有效限制其市场力量；（3）利用欧盟竞争法工具，规制国家补贴，减少内部市场竞争扭曲。（[查看更多](#)）

## German Monopoly Commission Releases Biennial Report XXIII on Competition 2020

On July 29, 2020, the German Monopoly Commission released the *Biennial Report XXIII: Competition 2020* (“**Report**”). The Report focuses on problems in three aspects: (i) in the Covid-19 crisis, continuing to apply with no compromises as to substantive law and that the potentially distortive rescue packages for companies implemented by the state should be accompanied by measures to promote competition; (ii) effectively limiting the market power of the major digital platforms by setting rules for dominant platforms at European level; and (iii) regulating state subsidies and reduce distortions of competition in the internal market with an instrument in European competition law. ([More](#))

## 美国四大科技巨头CEO出席国会反垄断听证会

2020年7月29日，美国国会众议院司法委员会反垄断、商业及行政法小组委员会召开主题为“在线平台和市场力量，第6部分：考察亚马逊、苹果、脸书和谷歌的支配地位”的听证会。四家科技巨头的CEO以视频连线的方式出席了听证会，并就实施掠夺性商业行为、窃取数字内容、侵略性地复制竞争企业模式和收购竞争企业等指控接受质询。听证会由该小组委员会主席大卫·西西林（David N. Cicilline）主持。（[查看更多](#)）

## Big Tech CEOs Attend Congress Antitrust Hearing

On July 29, 2020, the US House Judiciary Subcommittee on Antitrust, Commercial and Administrative Law held a Hearing with the theme of Online Platforms and Market Power, Part 6: Examining the Dominance of Amazon, Apple, Facebook, and Google. CEOs of Apple, Google, Amazon and Facebook testified at the hearing and answered questions about alleged predatory business practices, theft of digital content and aggressive copying and purchasing of competing businesses. The hearing was presided over by the Subcommittee Chairman David Cicilline. ([More](#))

## 美国司法部认定Avanci汽车行业5G电子通信技术许可平台将不太可能损害竞争

2020年7月28日，美国司法部反垄断局宣布，其已针对Avanci汽车行业5G电子通信技术许可平台（“5G平台”）进行审查，并表示该平台将不太可能损害竞争。司法部相关负责人表示，5G平台将可能促进Avanci已经做出FRAND承诺的上千项蜂窝标准必要专利的许可。司法部在其商业审查函中表示，Avanci的5G平台通过向汽车制造商提供一站式服务，可能会促使与汽车联通性相关的标准必要专利许可更加有效。（[查看更多](#)）

## US DOJ Concludes Avanci's Proposed 5G Platform is Unlikely to Harm Competition

On July 28, 2020, the Department of Justice (“DOJ”) Antitrust Division announced that it had completed its review of Avanci’s new Platform for licensing “Fifth Generation” (“5G”) telecommunications technology in the automotive industry, and concluded that Avanci’s proposed 5G Platform was unlikely to harm competition. According to Assistant Attorney General Makan Delrahim, the 5G Platform can facilitate the licensing of potentially thousands of cellular standard essential patents that Avanci has said it will provide access to at rates that are FRAND. According to the DOJ’s business review letter, Avanci’s 5G Platform may make licensing standard essential patents related to vehicle connectivity more efficient by providing automakers with a one stop shop for licensing 5G technology. ([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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 [www.lifanglaw.com](http://www.lifanglaw.com)  
 Email: [info@lifanglaw.com](mailto:info@lifanglaw.com)

 Tel: +8610 64096099  
 Fax: +8610 64096260/64096261