



NEWSLETTER

LIFANG & PARTNERS **立方观评**



关注更多精彩内容

No.235

2021.05

立方竞争法周报

Weekly Competition Law News

NO.113

国内要闻 Domestic News

市场监管总局召开互联网平台企业整改督察专题会

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

市场监管总局公布天津天药垄断协议案处罚决定书

SAMR Issues the Penalty Decision against Tianjin Tianyao and Other Companies

市场监管总局发布九起未依法申报经营者集中案处罚决定书

SAMR Issues Penalty Decisions of Nine Gun-Jumping Cases

市场监管总局对美团“二选一”进行反垄断调查

SAMR Investigates Meituan for “Either-or” Behavior

最高院发布知识产权案件年度报告摘要

SPC Releases Summary of Annual Report on Intellectual Property Cases

最高院：妥善处理互联网领域反垄断纠纷，完善平台经济反垄断裁判规则

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

海外动态 Overseas News

欧盟拟修改横向集体豁免条例与横向指南

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

欧盟就苹果滥用音乐流媒体应用程序分发市场支配地位发表异议声明

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

法国竞争管理局发布关于数字支付的竞争调查报告

Autorité de la Concurrence Issues its Opinions on Digital Payment

俄罗斯联邦反垄断局对苹果滥用市场支配地位行为罚款1200万美元

FAS Fines Apple USD 12 Million for Alleged Market Abuse

奥地利联邦竞争局对11家建筑企业提起卡特尔诉讼

AFCA Files Applications Against 11 Companies in Construction Cartel

国内要闻 Domestic News

市场监管总局召开互联网平台企业整改督察专题会

2021年5月7日，国家市场监督管理总局（“市场监管总局”）召开互联网平台企业整改督察专题会。会议指出，相关省（市）市场监管局应立即对34家平台企业展开中期督导，全面检查平台企业落实4月13日行政指导会整改要求，并对结果进行评估，确保对“二选一”等突出问题在限期内高质量完成整改。下一步，市场监管总局将持续推进平台企业整改工作，对问题突出的平台企业进行重点检查，对仍然顶风作案的平台企业，一律从严从重查处。（[查看更多](#)）

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](#))

市场监管总局公布天津天药垄断协议案处罚决定书

2021年4月30日，市场监管总局发布了对天津天药药业股份有限公司（“天津天药”）等三家企业的行政处罚决定书。经调查，天津天药与天津太平洋化学制药有限公司曾频繁沟通，三次达成并实施了划分市场、固定原料药价格的垄断协议。深圳市富海通医药有限公司参与了第三次的垄断协议，并与另两家公司组成三方协查小组监督垄断协议的实施情况。经过综合考虑，市场监管总局对三家公司分别处以4400万、520万、154万罚没款。（[查看更多](#)）

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](#))

市场监管总局发布九起未依法申报经营者集中案处罚决定书

2021年4月30日，市场监管总局集中发布了九起互联网领域违法实施经营者集中案件的行政处罚决定书，涉及网约车、在线外卖服务、汽车、线上生鲜产品销售、线上零售、医疗大数据等领域，涉及滴滴、万达、美团等知名企业。相关企业均被顶格处罚50万元。（[查看更多](#)）

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](#))

市场监管总局对美团“二选一”进行反垄断调查

2021年4月26日，市场监管总局发布新闻称，根据相关举报，其已在近日依法对美团实施“二选一”等涉嫌垄断行为立案调查。美团于当日发布公告，表示将积极配合监管部门的调查。2019年9月5日，饿了么曾对美团向浙江省金华市中级人民法院提起诉讼，主张美团实施的“二选一”等行为违反《反不正当竞争》法。今年2月28日，浙江省金华市中级人民法院已对该案作出一审判决，支持饿了么所主张的100万元经济损失。（[查看更多](#)）

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](#))

最高法院发布知识产权案件年度报告摘要

2021年4月26日，最高人民法院（“**最高院**”）发布了知识产权案件年度报告（2020）摘要。最高院2020年全年新收案件5390件，其中垄断案件为31件。在其中一起垄断案中，最高院指出，横向垄断协议的实施者无权要求其他实施者赔偿其因实施横向垄断协议导致的所谓经济损失。（[查看更多](#)）

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](#))

最高院：妥善处理互联网领域反垄断纠纷，完善平台经济反垄断裁判规则

2021年4月22日，最高院发布了《人民法院知识产权司法保护规划（2021-2025年）》（“《规划》”）。根据《规划》，“十四五”期间，人民法院将加强反垄断案件审理工作，强化竞争政策基础地位，适时制定有关司法解释，明确规制各类垄断行为，消除市场封锁，促进公平竞争。妥善处理互联网领域垄断纠纷，完善平台经济反垄断裁判规则，防止资本无序扩张，推动平台经济规范健康持续发展。（[查看更多](#)）

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](#))

海外动态 Overseas News

欧盟拟修改横向集体豁免条例与横向指南

2021年5月6日，欧盟委员会发布公告称其已发布一份职员工作文件，总结了对两个横向集体豁免条例以及《横向指南》的审查结果。结果显示这些横向集体豁免条例与《横向指南》为企业的横向合作协议提供了法律确定性，同时简化了欧盟委员会、国家竞争机构和国家法院的行政监管。此外，审查还确定了如数字化、追求可持续目标等需要提升效率的领域。接下来委员会将进入影响评估阶段，以调查在审查中发现的几个问题，新规则将于2022年12月31日前修订完毕。（[查看更多](#)）

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](#))

欧盟就苹果滥用音乐流媒体应用程序分发市场支配地位发表异议声明

2021年4月30日，欧盟委员发布通告称其已告知苹果公司，委员会初步认为苹果公司通过App Store滥用了在音乐流媒体应用程序分发市场的支配地位，扭曲了音乐流媒体市场竞争。委员会不认可苹果公司强制音乐流媒体应用程序开发者使用苹果自己的应用内置购买机制，才允许其通过苹果应用商店分发程序的做法。委员会还担心苹果公司对应用开发者施加限制，阻止他们告知iPhone和iPad用户更便宜的购买方法的行为。 ([查看更多](#))

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](#))

法国竞争管理局发布关于数字支付的竞争调查报告

2021年4月29日，法国竞争管理局发布了关于数字支付的竞争调查报告。经调查，该局认为支付领域的技术创新和监管变化使得像金融科技公司和大型科技公司这样的新市场参与者得以进入支付领域，并为消费者开发出新的支付方式和多元化服务，例如大型科技公司平台开发以公司名称命名的服务。平台型参与者具有相当大的数据和技术优势，且能在摆脱传统银行业规则的限制下获得可观利润，这一发展有可能会打破迄今为止支付领域存在的竞争平衡。 ([查看更多](#))

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](#))

俄罗斯联邦反垄断局对苹果滥用市场支配地位行为罚款1200万美元

2021年4月27日，据报道，俄罗斯联邦反垄断局（“FAS”）宣布对苹果滥用移动应用市场支配地位的行为处以1200万美元罚款。此前，网络安全公司卡巴斯基实验室向FAS投诉，称苹果的操作系统拒绝了其新版本儿童安全应用的上线。2020年8月，经调查，FAS认定苹果滥用了市场支配地位并下达指令要求苹果移除赋予其拒绝第三方应用在其应用商店上线的权利的条款。（[查看更多](#)）

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](#))

奥地利联邦竞争局对11家建筑企业提起卡特尔诉讼

2021年4月22日，奥地利联邦竞争局发布公告称，继2020年10月先起诉4家建筑企业实施卡特尔后，其在2021年4月9日又就同一行为对另7家建筑公司提起诉讼。该局调查发现，2002至2017年间，为了互相帮助对方取得合同，减少企业未来商业行为的不确定性，确保企业市场份额和利润的增长，超过40家建筑企业实施了固定价格、划分客户市场，交换竞争敏感信息等垄断行为。一旦被认定违反禁止卡特尔的法律，企业将面临最高上一年度总营业额10%的罚款。（[查看更多](#)）

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](#))

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。



This Newsletter has been prepared for clients and professional associates of Lifang & Partners. Whilst every effort has been made to ensure accuracy, no responsibility can be accepted for errors and omissions, however caused. The information contained in this publication should not be relied on as legal advice and should not be regarded as a substitute for detailed advice in individual cases.





Subscribe to our WeChat community

扫码关注公众号“立方律师事务所”和“竞争法视界”

北京 | 上海 | 武汉 | 广州 | 深圳 | 韩国
Beijing | Shanghai | Wuhan | Guangzhou | Shenzhen | Korea

 www.lifanglaw.com
 Email: info@lifanglaw.com

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