



# NEWSLETTER

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## 国内要闻 Domestic News

### 阿里巴巴：因受反垄断处罚影响，第四季度净亏损76.54亿元

2021年5月13日，阿里巴巴集团公布了其截至2021年3月31日的季度和财年业绩。官方新闻稿显示，2021财年第四季度，集团净亏损76.54亿元，主要是由于此前国家市场监督管理总局对阿里巴巴集团的反垄断罚款。若剔除该反垄断罚款影响及其他若干项目，本季度阿里巴巴集团非公认会计准则净利润同比增长18%，增至262.16亿元。（[查看更多](#)）

### Alibaba: Q4 Net Loss of CNY 7.654 Billion Due to Antitrust Penalties

On May 13, 2021, Alibaba Group announced its financial results for the fourth quarter and fiscal year ended March 31, 2021. The official press release showed that in the fourth quarter of fiscal 2021, the Group reported a net loss of CNY 7.654 billion, due to the previous antitrust fine imposed on Alibaba Group by the State Administration for Market Regulation (“SAMR”). Excluding the impact of this antitrust fine and certain other items, Alibaba Group’s non-GAAP (Generally Accepted Accounting Principles) net income in the quarter increased 18% year-over-year to CNY 26.216 billion. ([More](#))

### 公牛集团因涉嫌实施垄断协议被立案调查

2021年5月13日，公牛集团股份有限公司（“公牛集团”）发布公告，称其于5月11日收到浙江省市场监督管理局对公牛集团与交易相对人涉嫌达成并实施垄断协议行为进行立案调查的通知。公牛集团表示，公司目前生产经营一切正常，其将积极配合反垄断调查，及时披露后续进展。（[查看更多](#)）

### Bull Group Under Investigation for Allegedly Implementing Monopoly Agreements

On May 13, 2021, Bull Group Corporation (“Bull Group”) issued an announcement, stating that it received a notice from the Zhejiang Provincial Administration for Market Regulation on May 11 for the investigation of the suspected behavior of reaching and implementing monopoly agreement between Bull Group and its trading counterparties. Bull Group stated that the company’s production and operation remain normal and that it will actively cooperate with the antitrust investigation and disclose the follow-up progress in time. ([More](#))

### 最高院召开反垄断审判工作专家座谈会

2021年5月12日，最高人民法院（“最高院”）召开反垄断审判工作专家座谈会。最高院院长周强出席座谈会并对加强反垄断审判工作提出具体要求。他强调要坚持反垄断与保障平台经济发展相统一，加强反垄断司法与行政执法的有效衔接。同时，周强还指出数字经济发展给反垄断审判工作带来了新情况、新课题，要不断提升反垄断审判工作的能力和水平，聚焦司法定位、市场界定、数据权利等基础性问题，加强分析研判，促进反垄断审判体系和审判能力现代化。（[查看更多](#)）

## SPC Holds an Expert Symposium on Antitrust Trial Work

On May 12, 2021, the Supreme People's Court ("SPC") held an expert symposium on antitrust trial work. The President of SPC, Zhou Qiang, attended the symposium and put forward specific requirements for strengthening antitrust trials. He emphasized to adhere to unify the antitrust work and the protection of the development of platform economy, and to strengthen the effective connection between antitrust judicial work and administrative law enforcement. At the same time, Zhou Qiang also pointed out that the development of the digital economy has brought new situations and new issues to the antitrust trial work, and that it is necessary to continuously improve the ability and level of the antitrust trial work, focus on legal orientation, market definition, data rights and other fundamental issues, strengthen analysis and research, and promote the modernization of the antitrust trial system and trial capacity. ([More](#))

## 交通部：加强反垄断监管，避免平台公司滥用垄断地位

2021年5月7日，交通运输部召开部务会。会上强调要有序规范货运新业态经营行为。督促货运平台公司合理确定服务费、会员费等标准，严禁诱导货车司机低价竞争，确保派单公平公正。配合市场监管部门加强反垄断监管，避免平台公司利用垄断地位损害货车司机权益。（[查看更多](#)）

## MOT: Strengthening Antitrust Regulation and Preventing Platform Companies from Abusing the Dominant Position

On May 7, 2021, the Ministry of Transport ("MOT") held a meeting emphasizing to orderly regulate the operating behaviors of the new forms of freight transport industry. MOT will supervise freight platform companies reasonably determining the service fees, membership fees and other standards, strictly prohibit platform companies from inducing truck drivers to compete with low prices and ensure fair and reasonable dispatch. MOT will cooperate with market regulation departments to strengthen antitrust supervision and avoid platform companies utilizing monopoly position to damage the rights and interests of truck drivers. ([More](#))

## 海外动态 Overseas News

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### 谷歌因滥用市场支配地位被意大利罚款超1亿欧元

2021年5月13日，意大利反垄断主管机构（“AGCM”）发布声明称其对三家谷歌公司处以超过1亿欧元的罚款。AGCM认定，谷歌通过安卓操作系统及谷歌应用商店获得了可控制移动应用开发商访问终端用户的市场支配地位。根据调查结果，谷歌通过让其汽车应用Google Auto 不兼容应用开发商Enel X Italia 所开发的应用程序JuicePass，从而支持谷歌自己的应用程序谷歌地图，这一排除行为已持续了两年多。除罚款外，AGCM还命令谷歌兼容其他应用与编程工具。（[查看更多](#)）

## Google Fined Over 100 Million in Italy for Abuse of Dominant Position

On May 13, 2021, the Italian Competition Authority (“AGCM”) issued a statement, stating that it imposed a fine of over Euro 100 million on three Google-related companies. AGCM found that through the Android operating system and the Google Play App store, Google held a dominant position allowing it to control the access of App developers to end users. According to the investigation, by refusing Enel X Italia to develop a version of its JuicePass App compatible with Android Auto, Google consequently favored its own Google Maps App. The exclusion behavior had been going on for more than two years. In addition to imposing fine, AGCM also ordered Google to make available to other Apps and programming tools. ([More](#))

## 加拿大竞争局更新《竞争者合作指南》

2021年5月6日，加拿大竞争局（the Canadian Competition Bureau, “CCB”）发布了《竞争者合作指南》的最终修订版。此次更新旨在向企业和法律界明确说明如何确认并避免可能损害竞争的不同类型的合作行为。该指南于2009年首次发布，介绍了CCB如何评估竞争对手间现有和拟定的合作方法是否违反《竞争法》规定。此次更新的重要内容包括：CCB在评估公司是否为竞争者时会考虑的证据类型；CCB认定竞争对手间达成产品购买协议的方法。（[查看更多](#)）

## CCB Updates Competitor Collaboration Guidelines

On May 6, 2021, the Canadian Competition Bureau (“CCB”) published the final version of its revised *Competitor Collaboration Guidelines* (“*Guidelines*”). These updates are intended to provide clarity to the business and legal communities on how to identify and avoid the types of collaboration that can harm competition. The *Guidelines*, which were first issued in 2009, provide an overview of CCB’s general approach to assessing existing and proposed collaborations between competitors under the *Competition Act*. Notable updates to the *Guidelines* include: providing greater context regarding the types of evidence that CCB will consider in assessing whether firms are competitors and clarifying CCB’s approach to agreements between competitors for the purchase of products. ([More](#))

## 葛兰素史克公司因反向支付行为遭CMA处罚

2021年5月10日，英国反垄断执法机构竞争与市场管理局（“CMA”）发布新闻称，英国竞争上诉法庭（“CAT”）当日判决支持CMA对葛兰素史克公司（“GSK”）和一些抗抑郁药帕罗西汀仿制药供应商违反竞争法的认定，但同时将CAT确定的罚款金额减少了2,710万英镑。据调查，GSK曾同意向多家仿制药商支付共计5000万英镑，以非法推迟这些仿制药供应商进入英国市场的时间。2016年，CMA做出决定，对涉案公司处以共计4,499万英镑的罚款。涉案公司随即向CAT提起上诉。（[查看更多](#)）

## GSK Receives Penalty for Pay for Delay Behavior by CMA

On May 10, 2021, the UK Competition and Market Authority (“CMA”) published a statement stating that the Competition Appeal Tribunal (“CAT”) had upheld CMA’s decision that GlaxoSmithKline (“GSK”) and some generic suppliers of the anti-depressant paroxetine broke competition law, but re-

duced fines of GBP 27.1 million. It was investigated that GSK had agreed to make payments totaling GBP 50 million to other generic suppliers of paroxetine in order to illegally delay the potential entry of those competitors supplying generic medicines into the UK market. In 2016, CMA decided to impose fines totaling GBP 44.99 million on the companies involved. These companies then filed an appeal to CAT. ([More](#))

## 美国联邦贸易委员会发布维修限制报告

2021年5月6日，美国联邦贸易委员会（Federal Trade Commission，“FTC”）称其发布了一份关于售后维修限制的报告。在报告的第二部分，FTC讨论了与维修市场相关的竞争问题。从反垄断法的角度来讲，一些商家的商业决策可能会限制消费者或独立服务机构的维修选择并使得独立服务机构很难或无法在售后服务市场进行竞争。此外，这份报告还从售后维修限制的反垄断原理、涉及售后产品与服务的搭售主张、涉及售后限制的垄断主张三个角度进行了全面介绍。

([查看更多](#))

## FTC Publishes Report on Repair Restrictions

On May 6, 2021, the Federal Trade Commission (“FTC”) announced that it published a report on repair restrictions. In the section II of the report, FTC discusses the competition issues relating to repair re-markets. In antitrust parlance, some business decisions made by the manufacturers may restrict repair options by consumers or independent service organizations (“ISOs”) and make it difficult or impossible for ISOs to compete in aftermarket. Besides, the report also provides a comprehensive introduction from three perspectives: antitrust principles related to manufacturer restrictions on repair, tying claims involving aftermarket products and services, and monopolization claims involving aftermarket restrictions. ([More](#))

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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