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本期内容提要

【执法机构】 AUTHORITIES

- 1、肖亚庆出任国家市场监督管理总局党组书记、局长
Xiao Yaqing Becomes the Party Secretary and Director of SAMR
- 2、第八届中国竞争政策论坛在海南海口举行
The 8th China Competition Policy Forum Was Held in Haikou
- 3、市场监管总局发布2018年度反垄断执法十大典型案例
SAMR Issued 2018 ‘Top 10’ Most Influential Antitrust Cases

【经营者集中】 MERGER CONTROL

- 4、国家市场监管总局发布对普莱克斯和南炼设立合营企业未依法申报案的行政处罚决定
SAMR Announces a Penalty Decision against Praxair and Nanjing Refinery for Failure to Notify Their Joint Venture Deals

【海外动态】 OVERSEAS NEWS

- 5、百威英博因限制啤酒跨境销售遭欧盟罚款逾2亿欧元
EU Commission Fines AB InBev €200 Million for Restricting Cross-Border Sales of Beer
- 6、欧盟对摩根、花旗等5家银行串通操纵外汇现货交易卡特尔行为，处罚10.7亿欧元
EU Commission Fines 5 Banks Including JPMorgan, Citigroup, etc. €1.07 Billion for Participating in Foreign Exchange Spot Trading Cartel
- 7、美最高法院裁定允许针对苹果APP商店的反垄断诉讼
U.S. Supreme Court Allows App Store Antitrust Suit against Apple
- 8、印度正式对谷歌Android展开反垄断调查
India Orders Anti-trust Probe of Google for Alleged Android Abuse

【执法机构】 Authorities

1、肖亚庆出任国家市场监督管理总局党组书记、局长

国家市场监督管理总局迎来新局长。2019年5月18日，中央广电总台国际在线报道称，国家市场监督管理总局5月17日召开干部大会，宣布中央对市场监督管理总局主要负责同志职务调整的决定。肖亚庆同志任国家市场监督管理总局党组书记、局长。免去张茅同志的国家市场监管总局局长、党组书记职务。张茅已年满65岁。此次接替张茅执掌市场监管总局的肖亚庆今年60岁，此前任职国务院国资委主任。

[更多详情](#)

Xiao Yaqing Becomes the Party Secretary and Director of SAMR

SAMR welcomes the new director. On May 18, 2019, the CRI Online reported that SAMR held a meeting on May 17th, announcing the decision of the central government regarding the adjustment of chief leader in SAMR. Xiao Yaqing is appointed as Party Secretary and General Director of SAMR. The current general of SAMR and the party secretary Zhang Mao were removed. Zhang Mao is 65 years old. Xiao Yaqing, who succeeded Zhang Mao in charge of SAMR, is 60 years old and previously served as the director of the State-owned Assets Supervision and Administration Commission of the State Council.

2、第八届中国竞争政策论坛在海南海口举行

5月7日至8日，第八届中国竞争政策论坛在海南省海口市举行，280名来自不同国家和地区反垄断执法机构、政府部门、国际组织、研究机构、企业和律师事务所的代表参加论坛。论坛由市场监管总局和海南省政府主办，市场监管总局发展研究中心、海南省市场监管局和国务院反垄断委员会专家咨询组承办，对外经济贸易大学竞争法中心协办，主题为“更高水平开放与竞争政策——以中国自贸区/自由港建设为视角”。

在开幕式上，市场监管总局副局长兼国务院反垄断委员会秘书长甘霖出席致开幕词。海南省人民政府副省长沈丹阳、国务院反垄断委员会专家咨询组组长郎胜、国务院发展研究中心副主任隆国强等致辞。来自美国、欧盟、日本、韩国、新加坡等竞争执法机构高级官员出席做主旨演讲。

[更多详情](#)

The 8th China Competition Policy Forum Was Held in Haikou

From May 7th to 8th, the 8th China Competition Policy Forum was held in Haikou, Hainan Province. 280 representatives, from different countries and regions, from anti-monopoly law enforcement agencies, government departments, international organizations, research institutions, enterprises and law firms, joined the forum. The forum was jointly sponsored by SAMR and the People's Government of Hainan Province. And it was hosted by the Development and Research Center of SAMR, the Hainan Administration for Market Supervision and the Expert Advisory Group of the State Council Anti-Monopoly Committee, and co-organized by the Competition Law Center of the University of International Business and Economics. The theme was "Higher Level of Openness and Competition Policy - from the Perspective of China's Free Trade Zone / Free Port Construction."

At the opening ceremony, GAN Lin, deputy director of SAMR and Secretary-General of the State Council Anti-Monopoly Committee, addressed the opening speech. Shen Danyang, deputy governor of the People's Government of Hainan Province, Lang Sheng, head of the expert advisory group of the State Council Anti-Monopoly Committee, and Long Guoqiang, deputy director of the Development Research Center of the State Council, delivered speeches. Senior officials from competition law enforcement agencies of the United States, the European Union, Japan, South Korea, and Singapore attended the keynote speeches.

3、市场监管总局发布2018年度反垄断执法十大典型案例

(1) 冰醋酸原料药案

案情：2018年8月，市场监管总局根据举报立案调查冰醋酸原料药垄断案，查明三家涉案企业达成并实施了提高冰醋酸原料药价格的垄断协议。2018年12月，市场监管总局依法对三家企业作出处罚，罚款并没收违法所得合计1283万元，三家企业及时将冰醋酸原料药价格恢复至竞争状态。

[更多详情](#)

(2) 哈大齐地区天然气纵向垄断协议案

案情：2018年1月，国家反垄断执法机构对中国石油天然气股份有限公司天然气销售大庆分公司和大庆油田公司天然气分公司违反《反垄断法》的规定、限定压缩天然气最低转售价格的行为依法作出处罚，共处其年度销售额6%的罚款，合计8406万元。接受处罚后，两家涉案公司及时整改，保障了该地区天然气供应。

(3) 天津港口岸地区堆场经营企业垄断协议案

案情：2018年1月，天津市反垄断执法机构对天津市港口岸地区多家堆场经营企业违反《反垄断法》的规定、固定收费标准达成横向垄断协议的行为依法作出处罚，罚款总额超过4510万元。

[更多详情](#)

(4) 扑尔敏原料药垄断案简介

案情：2018年6月，多家媒体报道扑尔敏原料药价格暴涨，导致部分药品停产，市场监管总局及时立案调查。经查，涉案企业滥用扑尔敏原料药市场的支配地位，实施了以不公平高价销售商品、没有正当理由拒绝交易，以及没有正当理由搭售商品的行为。2018年12月，市场监管总局对涉案企业共处罚没款1243.14万元。

[更多详情](#)

(5) 华特迪士尼公司收购21世纪福克斯有限公司股权案

案情：此项集中交易金额达到4816亿元人民币，是迪士尼史上最大规模并购交易，交易完成后，美国好莱坞影视巨头将由六家变为五家，美国、欧盟均对该交易附加了限制性条件。市场监管总局审查后认为，该案不会对相关市场产生排除、限制竞争的效果，于2018年11月依法作出不予禁止决定。

(6) 联合技术公司收购罗克韦尔柯林斯公司股权案

案情：此项集中为民用航空制造业史上最大交易，交易金额达1993亿元人民币。交易后联合技术公司将成为全球最大、最全面航空零部件系统级供应商之一。此项集中将在航电设备等多个航空零部件市场产生排除、限制竞争效果。2018年11月，市场监管总局附条件批准此项集中，剥离罗克韦尔柯林斯可调水平安定面作动器等业务，剥离联合技术供氧系统全部研发项目，并就航电设备等产品附加行为性措施等。

(7) 依视路国际与陆逊梯卡集团合并案

案情：此项集中交易金额高达3385亿元人民币，为全球眼镜行业史上第一大并购，交易后的实体将成为全球最大眼镜企业。市场监管总局经过充分调研、论证分析，认为此项集中将对光学镜片、光学镜架和中高端太阳镜市场产生排除、限制竞争的效果，2018年7月，市场监管总局决定附加限制条件批准此项集中。

[更多详情](#)

(8) 内蒙古自治区公安厅滥用行政权力排除、限制竞争案

案情：2018年市场监管总局对内蒙古自治区公安厅涉嫌滥用行政权力排除限制竞争的案件进行调查。经查，内蒙古自治区公安厅印发《全区印章治安管理信息系统整合联网及推广使用新型防伪印章实施方案》，直接指定相关公司统一负责全区新型防伪印章系统软件的开发建设，其行为违反了《反垄断法》第三十二条的规定，构成滥用行政权力，排除、限制竞争行为。市场监管总局于2018年6月向内蒙古自治区政府办公厅发出行政建议书，建议其责令内蒙古公安厅进行整改。

[更多详情](#)

(9) 北京市公安局公安交通管理局滥用行政权力排除、限制竞争案

案情：2018年，市场监管总局对北京市公安局公安交通管理局涉嫌滥用行政权力排除限制竞争的案件进行调查。经查，北京市交管局未经公开竞争性程序，确定工商银行北京市分行作为北京市交通违章罚款唯一代收银行，并规定线下交纳罚款只能通过工行卡办理，其行为违反了《反垄断法》第三十二条的规定，构成滥用行政权力，排除、限制竞争行为。市场监管总局向北京市交管局通报了相关情况，并介绍了《反垄断法》的有关规定和国家相关政策。

[更多详情](#)

(10) 济南市城乡建设委员会滥用行政权力排除、限制竞争案

案情：2018年山东省反垄断执法机构对济南市建委涉嫌滥用行政权力排除、限制竞争行为进行调查。经查，济南市建委作为主管建设的行政机关，在无法律依据的情况下，通过下发文件的方式确定高层建筑太阳能热水系统推荐产品、协议价格等，限制了相关市场的公平竞争，其行为违反了《反垄断法》第三十七条的规定，构成滥用行政权力，排除、限制竞争行为。

[更多详情](#)

SAMR Issued 2018 ‘Top 10’ Most Influential Antitrust Cases

(1) Glacial Acetic Acid Bulk drug Case

[Background] In August 2018, SAMR investigated glacial acetic acid bulk drug monopoly agreement case based on the report and found that the three enterprises involved reached and implemented a monopoly agreement to increase the price of glacial acetic acid bulk drug. In December 2018, SAMR imposed penalties on three enterprises according to law, fined and confiscated the illegal income totaling CNY 12.83 million. The three enterprises timely restored the price to a competitive state.

(2) Harbin Daqi Natural Gas Vertical Monopoly Agreement case

[Background] The authority has imposed CNY 84.06m in cumulative fines on two natural gas units of PetroChina (i.e. Daqing Oilfield Company and PetroChina’s Daqing gas sales branch) for resale price maintenance on January 2018, amounting to 6% of their sales.

(3) The Monopoly Agreement case of the Yard Operation Enterprises in Tianjin Port Area

[Background] In January 2018, the Tianjin Anti-monopoly Law Enforcement Agency imposed penalties on a number of yard operation enterprises in Tianjin Port Area for reaching horizontal agreement of fixing charging standard, which violated the provisions of the *Anti-Monopoly Laws*, and the total fine was over CNY 45.1 million.

(4) The Monopoly Case of Chlorpheniramine

[Background] In June 2018, a number of media reported that the price of chlorpheniramine bulk drug soared, causing the cessation of producing several drugs. SAMR promptly launched formal investigation. Upon investigation, SAMR found that the companies involved had abused its dominant position in the chlorpheniramine bulk drugs market, implementing the sale of goods at unfairly high prices, refusing to trade without justified reasons, and arbitrarily tying goods. In December 2018, SAMR imposed a total fine of CNY 12.431 million on the enterprises involved.

(5) Walt Disney’s acquisition of 21st Century Fox Co., Ltd.’s equity case

[Background] The transaction amounted to CNY 48.1 billion, which is the largest M&A transaction in Disney history. After the acquisition, the number of Hollywood film giants will be changed from six to five. US and EU Commission have imposed restrictive conditions on the transaction. Upon review, SAMR determined that the case would have no eliminative or restrictive effect on the competition in the relevant market. In November 2018, SAMR approved the transaction unconditionally.

(6) United Technologies Corporation’s acquisition of Rockwell Collins’s equity case

[Background] This is the largest transaction in the history of civil aviation manufacturing sector with a transaction volume of RMB 19.3 billion. After the acquisition, United Technologies will become one of the world's largest and the

most comprehensive system component suppliers of aerospace components. This acquisition will eliminate and restrict competition in aviation equipment and other aviation components markets. In November 2018, SAMR conditionally approved this transaction, divesting Rockwell Collins' business of adjustable horizontal stabilizer actuators, and all R&D projects of the United Technologies oxygen supply system, and attached behavioral measures to products such as avionics equipment.

(7) Essilor International and Luxottica merger case

[**Background**] The transaction amounted to CNY 338.5 billion, making it the largest acquisition in the history of the global optical industry. The post-transaction entity will become the world's largest optical company. After extensive investigation and argumentation analysis, SAMR believes that this acquisition will have eliminative and restrictive effect on competition in China's optical lenses, optical frames and mid-high-level sunglasses markets. In July 2018, SAMR decided to impose additional restrictions on this transaction.

(8) The Public Security Department of the Inner Mongolia Autonomous Region abusing administrative power to exclude and restrict competition case

[**Background**] In 2018, SAMR investigated the Public Security Department of the Inner Mongolia Autonomous Region for abusing administrative power to exclude competition. The Public Security Department of Inner Mongolia Autonomous Region issued the "Implementation Plan for the Integration and Networking of the Public Security Management Information System of Seal and the Promotion and Use of New Anti-Counterfeiting Seals", directly designating the relevant companies to be responsible for the development and construction of the new anti-counterfeiting seal system software in the whole district, which violates Article 32 of the *Anti-Monopoly Law* and constitutes the abuse of administrative power to exclude and restrict competition. In June 2018, SAMR issued a notice to the General Office of the Inner Mongolia Autonomous Region Government, proposing the Inner Mongolia Public Security Department to carry out rectification.

(9) Public Security Traffic Management Bureau of Beijing Public Security Bureau abusing administrative power to exclude and restrict competition case

[**Background**] In 2018, SAMR investigated the Public Security Traffic Management Bureau of Beijing Public Security Bureau for abusing administrative power to exclude competition. Upon investigation, the Public Security Traffic Management Bureau has determined that ICBC Beijing Branch is the sole collection bank for Beijing traffic violation fines without open competitive procedures, and stipulates that offline fines can only be transferred through ICBC cards, which violates the provisions of Article 32 of the *Anti-Monopoly Law* and constitutes the abuse of administrative power to exclude and restrict competition. SAMR notified the Public Security Traffic Management Bureau of the relevant situation and introduced the relevant provisions of the *Anti-Monopoly Law* and relevant national policies.

(10) Jinan Urban and Rural Construction Committee abusing administrative power to exclude and restrict competition case

[**Background**] In 2018, the anti-monopoly law enforcement agency of Shandong Province investigated the Jinan Municipal Construction Committee for abusing administrative power to exclude competition. Upon investigation, the Jinan Municipal Construction Committee, as the administrative authority in charge of construction, determined the recommended products and agreement prices of solar water heating systems for high-rise buildings by issuing documents without legal basis, which restricted the fair competition in the relevant markets and violates the provisions of Article 37 of the *Anti-Monopoly Law* and constitutes abuse of administrative power to exclude and restrict competition.

【经营者集中】 Merger Control

4、国家市场监督管理总局发布对普莱克斯和南炼设立合营企业未依法申报案的行政处罚决定

2019年5月14日，国家市场监督管理总局网站发布公告：市场监管总局已于2019年4月28日对普莱克斯（中国）投资有限公司和南京炼油厂有限责任公司设立合营企业未依法申报案作出行政处罚决定。

2013年10月30日，普莱克斯与南炼签署《合资经营合同》，共同设立合营企业，普莱克斯持股51%，南炼持股49%。2013年12月24日，合营企业取得营业执照。该交易系设立合营企业，属于《反垄断法》第20条规定

的经营者集中。普莱克斯2012年度中国境内营业额（略）；全球营业额708.5亿元人民币；南炼2012年度全球及中国境内营业额均为（略），达到《国务院关于经营者集中申报标准的规定》第3条规定的申报标准，属于应当申报的情形。2013年12月24日，合营企业取得营业执照，此前未依法申报，违反《反垄断法》第21条规定，构成未依法申报的经营者集中。本机关就普莱克斯与南炼设立合营企业对市场竞争的影响进行了评估，评估认为，该项经营者集中不会产生排除、限制竞争的效果。

根据上述调查情况和评估结论，本机关根据《反垄断法》第48条、第49条和《暂行办法》第13条规定，对普莱克斯和南炼各处以30万元人民币罚款的行政处罚。

[更多详情](#)

SAMR Announces a Penalty Decision against Praxair and Nanjing Refinery for Failure to Notify Their Joint Venture Deals

On May 14, 2019, the official website of SAMR announced that SAMR has made a penalty decision against Praxair (China) Investment Co., Ltd. (Praxair) and Nanjing Refinery Co., Ltd. (Nanjing Refinery) for failure to notify their joint venture deals on April 28, 2019.

On October 30, 2013, Praxair and Nanjing Refinery signed a “joint venture contract” to jointly establish a joint venture. Praxair held 51% and Nanjing Refinery held 49%. On December 24, 2013, the joint venture obtained a business license. The transaction is a joint venture, and it amounts to concentration of undertakings, as defined in Article 20 (3) of the *Anti-Monopoly Law (AML)*. Praxair's 2012 domestic turnover in China was (X); global turnover of RMB 70.85 billion yuan; Nanjing Refinery 2012 global and China's domestic turnover were (X). The parties are legally obliged to notify the deal under Article 3 of the ‘*Provisions of the State Council on Thresholds for Prior Notification of Concentrations of Undertakings*’. On December 24, 2013, the joint venture company obtained a business license, which had not been notified in advance. It violated the provisions of Article 21 of the *AML*, which constitutes a concentration of undertakings without being notified in accordance with the law. After assessing the deal’s impact on market competition, SAMR concluded the conduct had no anticompetitive impact.

Based on the above-mentioned situation and the result of assessment, citing Articles 48 and 49 of the *AML* and Article 13 of the ‘*Provisional Measures on Investigation and Punishments on Undertakings that Failed to Declare the Concentration of Undertakings as Required by Law*’, SAMR imposed a fine of CNY 300,000 each on the two undertakings.

【海外动态】 Overseas News

5、百威英博因限制啤酒跨境销售遭欧盟罚款逾2亿欧元

欧盟委员会因世界啤酒制造巨头百威英博公司违反欧盟的反垄断规定，滥用其在比利时啤酒市场的主导地位，阻碍其Jupiler啤酒从荷兰低价进口到比利时，对该公司罚款200 409 000欧元。主管竞争政策的Margrethe Vestager专员表示：“百威英博蓄意限制比利时和荷兰之间的跨境销售，使得比利时的消费者为他们喜爱的啤酒一直支付更高的价格。占市场主导地位的企业试图割裂市场以维持高价的行为是违法的。因此，我们对百威英博的垄断行为处以2亿欧元罚款。”

EU Commission Fines AB InBev €200 Million for Restricting Cross-Border Sales of Beer

The European Commission has fined AB InBev €200 409 000 for breaching EU antitrust rules. AB InBev, the world's biggest beer company, has abused its dominant position on the Belgian beer market by hindering cheaper imports of its Jupiler beer from the Netherlands into Belgium. Margrethe Vestager, Commissioner in charge of competition policy, said: "Consumers in Belgium have been paying more for their favourite beer because of AB InBev's deliberate strategy to restrict cross border sales between the Netherlands and Belgium. Attempts by dominant companies to carve up the Single Market to maintain high price are illegal. Therefore we have fined AB InBev €200 million for breaching our antitrust rules."

[More details](#)

6、欧盟对摩根、花旗等5家银行串通操纵外汇现货交易卡特尔行为，处罚10.7亿欧元

欧盟委员会对5家银行因参与操纵11种货币现货外汇汇率的两起卡特尔案件作出处罚决定，涉及货币有欧元，英镑，日元，瑞士法郎，美国，加拿大，新西兰和澳元以及丹麦，瑞典和挪威克朗。

第一份处罚决定对巴克莱银行，苏格兰皇家银行（RBS），花旗集团和摩根大通共计罚款8.11亿欧元。第二份处罚决定对巴克莱银行，苏格兰皇家银行和MUFG银行（原东京三菱银行）处以共计2.58亿欧元罚款。瑞银因是首个告知欧盟外汇合谋行为的银行而免于处罚。

EU Commission Fines 5 Banks Including JPMorgan, Citigroup, etc. €1.07 Billion for Participating in Foreign Exchange Spot Trading Cartel

The European Commission has fined five banks for taking part in two cartels in the Spot Foreign Exchange market for 11 currencies - Euro, British Pound, Japanese Yen, Swiss Franc, US, Canadian, New Zealand and Australian Dollars, and Danish, Swedish and Norwegian crowns.

The first decision imposes a total fine of €811 197 000 on Barclays, The Royal Bank of Scotland (RBS), Citigroup and JPMorgan. The second decision imposes a total fine of €257 682 000 on Barclays, RBS and MUFG Bank (formerly Bank of Tokyo-Mitsubishi). UBS is an addressee of both decisions, but was not fined as it revealed the existence of the cartels to the Commission.

[More details](#)

7、美最高法院裁定允许针对苹果APP商店的反垄断诉讼

美国最高法院周一批准了一起消费者指控苹果垄断其iPhone应用商店，并迫使他们支付过高费用的诉讼案，并且拒绝了苹果公司为逃避其行为违反联邦反垄断法的指控而进行的投标。裁决做出后，苹果股价走低，重挫超过5%。法官们在一项5比4的裁决中，维持了下级法院的决定，允许拟议的集体诉讼案继续进行。原告称，这家总部位于加州库比蒂诺的科技公司要求应用程序通过其应用商店进行销售，并从销售中提取高达30%的佣金。

特朗普政府支持下的苹果公司辩称，它只是作为应用程序开发商的代理人，并向开发商收取一定的佣金，而且应用程序的价格是由开发商自己确定的。苹果曾辩称，若最高法院允许该案继续进行审理，则可能对电子商务构成威胁。电子商务是美国经济中迅速扩张的一部分，年销售额高达数千亿美元。

周一的裁定主要是程序性的，但由该裁定引发的法庭斗争可能会持续多年。为赢得诉讼，消费者必须证明他们受到了苹果在其平台上以更高价格发布软件行为的伤害。

[更多详情](#)

U.S. Supreme Court Allows App Store Antitrust Suit against Apple

The U.S. Supreme Court on Monday gave the go-ahead for a lawsuit by consumers accusing Apple Inc of monopolizing the market for iPhone software applications and forcing them to overpay, rejecting the company's bid to escape claims that its practices violate federal antitrust law. Apple shares fell more than 5% after the justices, in a 5-4 ruling, upheld a lower court's decision to allow the proposed class action lawsuit to proceed. The plaintiffs said the Cupertino, California-based technology company required apps be sold through its App Store and extracted an excessive 30 percent commission on purchases.

The company, backed by the Trump administration, argued that it was only acting as an agent for app developers, who set their own prices and pay Apple's commission. Apple had argued that a Supreme Court ruling allowing the case to proceed could pose a threat to e-commerce, a rapidly expanding segment of the U.S. economy worth hundreds of billions of dollars in annual sales.

Monday's decision was primarily procedural, but future court battles stemming from the decision could rage on for years. To win a lawsuit, consumers would have to prove they've been harmed by Apple's bottleneck on software distribution on its platform in the form of higher prices.

[More details](#)

8、印度正式对谷歌Android展开反垄断调查

路透社援引两位知情人士的消息称，印度反垄断机构已对谷歌展开调查，评估谷歌是否利用其Android移动操作系统打压竞争对手。

今年2月，路透社报道称印度竞争委员会（CCI）从去年开始对该指控进行调查。该案件类似于谷歌之前在欧盟面临的Android垄断指控，谷歌被罚款43.4亿欧元（50亿美元）。

知情人士称，印度竞争委员会上月中旬得出结论，竞争对手对谷歌的指控有理有据，决定对谷歌展开全面的调查。另一知情人士肯定了这一消息的真实性。展开全面调查的决定此前未公开。

该知情人士称：“鉴于欧盟的先例，这对印度竞争委员会来说是一起有理有据的案件。另外，印度竞争委员会的初步调查结果发现，谷歌确实滥用了它的主导地位。”

这位知情人士还表示，调查将在大约一年的时间内完成，谷歌高管在未来几个月可能被印度竞争委员会传唤。

对此，印度竞争委员会尚未对此发表评论。而谷歌发言人在一份声明中称，通过使移动设备价格变得更低，Android让数以百万计的印度人接入互联网。谷歌期待着配合印度竞争委员会的工作，“向他们展示Android如何带来了更多的竞争和创新，而不是更少”。

[更多详情](#)

India Orders Anti-trust Probe of Google for Alleged Android Abuse

NEW DELHI (Reuters) - India's antitrust watchdog has ordered an investigation into Alphabet Inc's unit Google for allegedly abusing the dominant position of its popular Android mobile operating system to block rivals, two sources aware of the matter told Reuters.

The Competition Commission of India (CCI) last year started looking into the complaint, which is similar to one Google faced in Europe that resulted in a 4.34 billion euro (\$5 billion) fine on the company, Reuters reported in February.

In mid-April, the CCI decided there was merit in the accusations made in the complaint and ordered its investigation unit to launch a full probe, one of the sources with direct knowledge of the matter said. That decision, which was confirmed by the second source, has not been previously reported and the order calling the full investigation was not made public.

“It is a strong case for the CCI, given the EU precedent,” said the first source. “The CCI has (preliminarily) found Google abused its dominant position.”

The probe would be completed in about a year and Google executives would likely be summoned to appear before the CCI in coming months, the source said.

The CCI did not respond to a request for comment. A Google spokesman said Android has enabled millions of Indians to connect to the internet by making mobile devices more affordable. Google looked forward to working with the CCI “to demonstrate how Android has led to more competition and innovation, not less”, the spokesman said in a statement.

[More details](#)

IMPORTANT INFORMATION

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