



NEWSLETTER

LIFANG & PARTNERS **立方观评**



关注更多精彩内容

No. **97**

2019.09

立方竞争法周报

Weekly Competition Law News

国内要闻 Domestic News

市场监管总局发布行政处罚裁量权指导意见征求意见稿

SAMR Invites Comment on Draft Guiding Opinions on Administrative Punishment Discretion

湖南省市监局召开电信行业价格行为提醒告诫会

Hunan AMR Warns Three Major Telecommunications Operators Against Price Violations

因设立合营企业未依法申报，哈电股份与通用电气各被罚30万

SAMR Fines Harbin Electric, GE China CNY 300,000 Each for Gun-jumping

市场监管总局征集竞争政策相关研究课题

SAMR Launches New Research Support Program on Competition Policy

海外动态 Overseas News

美国法院对海产巨头StarKist判处1亿美元顶格反垄断刑事罚金

StarKist Ordered to Pay USD 100m Criminal Fine for Antitrust Violation

欧盟竞争专员玛格丽特·维斯塔格获连任

EU: Antitrust Chief Vestager Gets Another Five-Year Term with More Powers

葡萄牙对14家银行交换敏感信息行为开出2.25亿欧元反垄断罚单

Portugal Competition Watchdog Fines Banks over Concerted Practices

美国50名总检察长对谷歌展开联合反垄断调查

Google under Antitrust Investigation by 50 Attorneys General

国内要闻 Domestic News

市场监管总局发布行政处罚裁量权指导意见征求意见稿

2019年9月10日，国家市场监督管理总局（“市场监管总局”）发布了《市场监管总局关于市场监督管理部门正确行使行政处罚裁量权的指导意见（征求意见稿）》（“征求意见稿”），向社会公开征求意见。征求意见稿共包含四部分内容，分别为：1）行政处罚裁量权的含义及行使原则；2）建立健全行政处罚裁量基准制度；3）行政处罚裁量权的适用规则；4）其他有关事项。（[查看更多](#)）

SAMR Invites Comment on Draft Guiding Opinions on Administrative Punishment Discretion

On 10 September 2019, China's State Administration for Market Regulation (“SAMR”) issued the *Guiding Opinions of SAMR on Correctly Exercising Administrative Punishment Discretion by Market Regulation Administrations (Exposure Draft)* (“**Exposure Draft**”) to solicit the public's opinion. Four parts are contained in the **Exposure Draft**: i) the conception and the exercising principles of administrative punishment discretion, ii) the establishment of the fundamental legislation for administrative punishment discretion, iii) the applicable rules of administrative punishment discretion, and iv) other matters. ([More](#))

湖南省市监局召开电信行业价格行为提醒告诫会

2019年9月10日，湖南省市场监督管理局（“湖南省市监局”）召开电信行业价格行为提醒告诫会，湖南省移动、联通、电信三家运营商分管领导及部门负责人参加会议。湖南省市监局副局长丁珍良在会上强调，各运营商要严格遵守价格、反垄断等法律法规，按照工作安排进行全面自查、全面梳理、全面整改。同时，需要规范经营，加强守法意识，不搞恶性竞争，自觉规范价格行为，维护电信行业市场价格秩序，切实保障消费者权益。（[查看更多](#)）

Hunan AMR Warns Three Major Telecommunications Operators Against Price Violations

On 10 September 2019, the Administration for Market Regulation of Hunan Province (“**Hunan AMR**”) held a meeting with the local person-in-charge of three major telecommunications operators - China Mobile, China Unicom and China Telecom to alert them of price violations. During the meeting, Zhenliang Ding, the deputy director-general of Hunan AMR, stressed that all operators should strictly comply with the price, anti-monopoly and other laws and regulations, and conduct comprehensive self-examination, review and rectification according to the arrangement. Meanwhile, each operator should standardize operation, strengthen awareness of law-abiding, not engage in malicious competition, regulate price-related behavior, maintain market price order in the telecommunication industry and effectively protect the interest of the consumer. ([More](#))

因设立合营企业未依法申报，哈电股份与通用电气各被罚30万

2019年9月9日，市场监管总局发布了对哈尔滨电气股份有限公司（“哈电股份”）与通用电气（中国）有限公司（“通用电气”）新设合营企业未依法申报案的行政处罚决定书，对两家企业各处罚款30万元。2018年7月9日，两家企业签署合资经营企业合同，拟新设合营企业并分别持有50%股权。2018年10月25日，合营企业取得营业执照。该交易达到了中国经营者集中申报标准但未依法申报，违反了《反垄断法》第二十一条的规定。（[查看更多](#)）

SAMR Fines Harbin Electric, GE China CNY 300,000 Each for Gun-jumping

On 9 September 2019, SAMR announced that it has fined Harbin Electric Company Limited (“**Harbin Electric**”) and General Electric (China) Co., Ltd. (“**GE China**”) CNY 300,000 each for failure to notify their joint venture deal. On 9 July 2018, the two parties signed an agreement to set up a 50:50 joint venture. The parties did not notify the deal before the joint venture obtained a business license on 25 October 2018, violating the *Anti-Monopoly Law* provisions regarding the concentration of undertakings under Article 21. ([More](#))

市场监管总局征集竞争政策相关研究课题

2019年9月9日，市场监管总局发布政策研究课题征集公告，课题主要研究内容为落实中央经济工作会议精神，结合我国经济发展阶段，理清竞争政策的内涵，研究竞争政策实施的重点难点问题，提出进一步强化竞争政策的基础性地位的政策建议。课题申报单位原则上是党政机关、事业单位、高校、企业和社会团体，应具有较强的学术资源和研究实力，能够充分保证课题研究投入。申报截止时间为2019年9月24日。（[查看更多](#)）

SAMR Launches New Research Support Program on Competition Policy

On 9 September 2019, SAMR issued a notice to launch a new research support program on competition policy. The main research content of this program is to implement the spirit of the central economic work conference, combine the economic development of China, clarify the connotation of competition policy, study the key difficulties of the implementation of competition policy, and provide policy suggestions on further strengthening the fundamental position of competition policy. In principle, the applicants should be party and government organs, public institutions, colleges and universities, companies and social organizations, which have strong academic resources and research capacity and can guarantee the full devotion in researching. The deadline for application is 24 September 2019. ([More](#))

海外动态 Overseas News

美国法院对海产巨头StarKist判处1亿美元顶格反垄断刑事罚金

2019年9月11日，美国司法部发布新闻称，美国海产巨头星基斯特（StarKist）因在金枪鱼罐头产品上固定价格的垄断行为而被法院判处1亿美元顶格反垄断刑事罚金。据悉，星基斯特至少在2011年11月至2013年12月期间，实施了固定金枪鱼罐头价格的行为。在当天的量刑宣判庭审

中，法官认定星基斯特没有证据证明其因财务状况而需降低罚金的正当性。美国司法部反垄断局也明确反对星基斯特降低罚金的要求，认为其有足够的财力支付1亿美元的罚金。（[查看更多](#)）

StarKist Ordered to Pay USD 100m Criminal Fine for Antitrust Violation

On 11 September 2019, the U.S. Department of Justice (“DOJ”) announced that StarKist Co. was sentenced to pay a criminal fine of USD 100m, the statutory maximum, for its participation in a conspiracy to fix the prices of canned tuna fish from as early as November 2011 through at least as late as December 2013. As part of the sentencing hearing, U.S. District Judge Edward M. Chen found that StarKist had not proven that its financial circumstances justified a lower criminal fine. The Antitrust Division of the DOJ opposed StarKist’s request for a fine reduction, arguing that StarKist had sufficient financial resources to pay a USD 100m criminal fine. ([More](#))

欧盟竞争专员玛格丽特·维斯塔格获连任

2019年9月10日，新一届欧盟委员会候任主席、现任德国国防部长乌尔苏拉·冯德莱恩（Ursula von der Leyen）宣布了其团队成员名单。值得注意的是，现任欧盟竞争专员玛格丽特·维斯塔格（Margrethe Vestager）将主管欧盟数字政策并继续担任竞争专员。这意味着，其将史无前例地连任欧盟竞争专员一职，获得第二个五年任期。此前，玛格丽特·维斯塔格针对包括谷歌在内的众多科技巨头屡次开出动辄数亿甚至数十亿欧元的反垄断罚单。（[查看更多](#)）

EU: Antitrust Chief Vestager Gets Another Five-Year Term with More Powers

On 10 September 2019, the President-elect Ursula von der Leyen presented her team and the new structure of the next European Commission. It’s worth noting that Margrethe Vestager will stay in charge of Europe’s competition rules and take charge of EU digital policy, which means that she is appointed to an unprecedented second five-year term as EU’s Competition Commissioner. Previously, she has squeezed huge penalties out of tech giants including Google. ([More](#))

葡萄牙对14家银行交换敏感信息行为开出2.25亿欧元反垄断罚单

2019年9月9日，据路透社报道，葡萄牙竞争局在经过长时间调查后，对14家银行就信贷产品交换敏感商业信息的行为开出了2.25亿欧元的反垄断罚单。葡萄牙竞争局表示，2002年至2013年期间，这些银行不断地相互交互敏感的信息以提供零售银行信贷产品，包括按揭贷款以及个人和企业贷款。葡萄牙竞争局认为，通过上述违法行为，这些银行可以降低风险以及降低其竞争对手相关举动的不确定性，因此损害了竞争，也直接影响到了消费者的利益。（[查看更多](#)）

Portugal Competition Watchdog Fines Banks over Concerted Practices

On 9 September 2019, *Reuters* reported that after a long-running investigation, Portugal’s competition authority AdC (Autoridade da Concorrência) said it fined 14 banks a total of EUR 225m for concerted practices of exchanging sensitive commercial information on credit products. In a statement, AdC said that for more than a decade, between 2002 and 2013, the banks exchanged sensitive information on the

supply of retail banking credit products, including mortgages, consumer and corporate loans. “By distorting the rules of competition through unlawful coordination that allowed them (banks) to reduce the risk and uncertainty about the performance of their direct competitors, the behaviour of the banks harmed competition, directly affecting consumers,” AdC said. ([More](#))

美国50名总检察长对谷歌展开联合反垄断调查

2019年9月9日，美国德克萨斯州总检察长Ken Paxton宣布，该州正在领导48个州及华盛顿特区、波多黎各自由邦的共计50名总检察长对谷歌的联合反垄断调查。调查方认为，谷歌在互联网广告和搜索市场的控制力可能导致反竞争行为从而损害消费者权益。据悉，美国的50个州中，只有加利福尼亚州（谷歌总部所在地）和阿拉巴马州未参与此项联合调查。（[查看更多](#)）

Google under Antitrust Investigation by 50 Attorneys General

On 9 September 2019, Ken Paxton, the Attorney General of Texas announced that Texas is leading 50 attorneys general from 48 states, the District of Columbia and Puerto Rico in a multistate, bipartisan investigation of tech giant Google’s business practices in accordance with state and federal antitrust laws. The bipartisan coalition announced plans to investigate Google’s overarching control of online advertising markets and search traffic that may have led to anticompetitive behavior that harms consumers. The only two states not participating in the probe are California, where Google is based, and Alabama. ([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 | 广州 | 武汉 | 上海 | 深圳 | 首尔
Beijing | Guangzhou | Wuhan | Shanghai | Shenzhen | Seoul

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

 Tel: +8610 6409 6099
 Fax: +8610 6409 6260/6409 6261