

China Competition Policy & IP

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Meetings/Seminars/Projects

SAMR Holds National Market Supervision Work Conference

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On January 13, 2023, the State Administration for Market Regulation (SAMR) held the National Market Supervision Work Conference. During the conference, SAMR Director Luo Wen outlined the priorities for market regulation work in 2023, emphasizing focus areas related to anti-monopoly, anti-unfair competition, and the protection of intellectual property rights. These priorities include:

- Supporting the development of market entities; creating a market-oriented, law-based, and first-class international business environment; boosting market confidence; and stabilizing market expectations.
- Improving the level of normalized supervision and promoting the healthy and sustainable development of the platform economy.
- Continuously optimizing a level playing field, strengthening anti-monopoly and anti-unfair competition efforts, enhancing intellectual property protection and management services, and further stimulating market competition and innovation vitality.
- Strictly implementing safety responsibilities, promoting the implementation of the end-to-end working mechanism to achieve effective results, and further strengthening the safety guarantee in the field of market supervision.
- Promoting in-depth supervision and enforcement in people's livelihoods, regulating market order, optimizing the consumption environment, and safeguarding the people's vital interests.

SPC Calls for Expediting the Formulation and Proper Application of Antitrust and Anti-Unfair Competition Judicial Interpretations

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On January 8, 2023, the Supreme People's Court (SPC) convened a national meeting of presidents of the nation's high courts to deploy the work of the people's courts at all levels in 2023. The SPC emphasized increasing the judicial protection of intellectual property, and requested that courts at all levels speed up the establishment of judicial interpretations of anti-monopoly and anti-unfair competition and apply these interpretations appropriately to safeguard fair competition.

Specific tasks related to intellectual property include:

- Strengthening the judicial protection of intellectual property rights, especially in key technologies and emerging fields
- Deepening reform and innovation in the field of intellectual property adjudication
- Promoting the improvement of the appeal and trial mechanism for intellectual property cases at the national level
- Serving high-level technological self-reliance and self-improvement

Technology-related tasks include:

- Properly adjudicating cases involving new technologies, new industries, and new business models in accordance with the law
- Properly handling the relationship between the protection of digital rights and the development of the digital economy
- Fostering the disciplined and healthy development of platform enterprises
- Facilitating the enhancement of the technological strength and innovation ability of the digital economy in China

Symposium Summarizes Pilot Program Delegating Merger Reviews to Provincial AMRs

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On January 3, 2023, SAMR held a symposium on the pilot program that delegates certain merger reviews to provincial administrations for market regulation (AMRs). The symposium summarized the pilot program's achievements and experiences since its launch in August 2022 and deployed tasks for the next phase.

Gan Lin, Deputy Director of SAMR and Director of the National Anti-Monopoly Bureau, attended the symposium and delivered a speech. The meeting stressed that SAMR will further improve and perfect the pilot merger review delegation mechanism, give full play to the advantages of the market supervision system, and effectively maintain fair competition in the market.

Since the pilot program's implementation in five provinces and municipalities – Beijing, Shanghai, Guangdong, Chongqing, and Shaanxi – on August 1, 2022, SAMR has delegated a total of 135 cases to local market regulators for review of concentration of undertakings, accounting for 32.7% of filings in the same period. On average, the time from acceptance to conclusion of cases has been 17.8 days, which is consistent with SAMR's timeline. The operation of the pilot delegation project has gone smoothly overall, and it has been widely praised by enterprises and the community.

Regulatory News

SAMR Releases 2022 Anti-Monopoly Law Enforcement Statistics

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In January 2023, SAMR published its enforcement statistics for 2022, outlining the achievements of the regulator's antitrust and unfair competition efforts.

The profound implementation of China's fair competition policy occurred in 2022. At the outset, the revised Anti-Monopoly Law came into force, laying the legislative foundation for antitrust work. In addition, SAMR also promoted the enactment and revision of 10 laws and regulations and issued 14 departmental rules.

In terms of law enforcement in 2022, a total of 73 cases of abuse of administrative power excluding or restricting competition, 149 cases of market monopoly, and 7,874 cases of unfair competition were investigated and handled. SAMR also concluded 794 cases of declarations of concentrations of undertakings and penalized 32 cases of failure to declare. The regulator initiated four innovative pilot projects on fair competition review and conducted the first third-party assessment of fair competition review at the national level.

Chongqing Gas Company Fined for Abuse of Dominance

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On February 1, 2023, SAMR released the administrative penalty decision of the Chongqing Administration for Market Regulation (Chongqing AMR) against Chongqing Yongkang Gas Co., Ltd. (Yongkang) for abuse of dominance.

In August 2021, the Chongqing AMR opened an investigation into Yongkang for allegedly abusing its dominant market position. The relevant market is the pipeline gas supply service market of 15 towns and streets in the Yongchuan District of Chongqing. According to the investigation, as the only pipeline gas supplier in the local district, Yongkang possesses nearly 100% market share and can control the relevant market. The local residents are highly dependent on Yongkang. It is also difficult for other operators to enter the relevant market due to the local franchise model for piped gas supply services in Chongqing, the large investment that is required in the gas pipeline network and ancillary facilities, the long cost recovery period, and the strict approval requirement for the

construction of the pipeline network. Therefore, Yongkang was found to have a dominant market position in the relevant market.

The Chongqing AMR found that, since 2018, Yongkang has abused its dominant position by conditioning its gas supply services on the purchase of gas stoves, alarms, and insurance. Yongkang also attached unreasonable conditions to the transactions. Such conduct damaged the interests of consumers and other business operators, and excluded other suppliers of gas stoves, alarms, and insurance services from competing in the market. Multiple local gas stove suppliers complained that the conduct of Yongkang has severely impaired their sales.

Considering the company's vast social impact and active cooperation, the Chongqing AMR ordered Yongkang to stop its illegal behavior and administered a fine of 5% of its sales in 2020, which amounts to RMB 2,409,398.17.

Seven Cruise Companies Fined by Anhui AMR for Monopoly Agreement

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On January 4, 2023, SAMR released the administrative penalty decision of the Anhui Administration for Market Regulation (Anhui AMR) against Huangshan Taiping Lake Cruise Co., Ltd. and six other cruise companies of Taiping Lake in Huangshan City for reaching and implementing monopoly agreements.

On November 27, 2019, Anhui AMR opened an investigation into the suspected monopolistic behavior of the seven Taiping Lake cruise companies. According to the investigation, the seven companies signed the "Taiping Lake Cruise Company Joint Operation Agreement" on September 22, 2019 to agree on the order of sailing operations and fix the price of passenger transportation and other fees. From October 1, 2019, to December 4, 2019, a fixed price was charged on all passenger ships and speedboats of the seven companies. The revenues and profit were split according to the proportion of the boats operated by each cruise company.

The Anhui AMR concluded that the seven cruise companies' illegal conduct disrupted the order of market competition. The cruise ship operators in the Taiping Lake area could not freely set the price of cruise ship transport and thus might lose the motivation to improve service quality. The agreement fixed commodity prices and divided the sales market. It affected efficiency and prevented social resources from being optimally allocated. Therefore, the Anhui AMR confiscated the illegal gains and administered a fine of 3% of each company's respective sales in 2018. The total penalty of the seven companies amounted to RMB 428,860.79.

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