



NEWSLETTER

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Weekly Competition Law News

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By Lifang & Partners

Domestic News

SAMR Fines Simcere CNY 100.7m for Refusal to Supply Batroxobin API
SAMR Publishes 5 Cartel Cases, 4 Associations and 47 Companies Fined over CNY 17m
SAMR Fines Huaafa Property and JLL CNY 350,000 Each for Gun-jumping
New Subsidies Rules to Stimulate China's Provincial Antitrust Enforcement
SAMR Fines Xuefeng Investment CNY 300,000 for Gun-jumping
China Cement Association Calls for Antitrust Compliance
China's State Council Collecting Clues on Arbitrary Charges on Enterprises
Chongqing AMR Publishes Antitrust Enforcement Performance in 2020
Zhejiang AMR Publishes Antitrust Law Enforcement Performance in 2020

Overseas News

European Commission Opens Formal Antitrust Investigation into Possible Cross-Border Restrictions by Mondelēz
UK's CMA Issues Environmental Sustainability Agreements and Competition Law
FTC Acting Chair Rebecca Kelly Slaughter Announces Interim Leadership Appointments

Domestic News

SAMR Fines Sincere CNY 100.7m for Refusal to Supply Batroxobin API

On January 29, 2021, China's State Administration for Market Regulation ("SAMR") announced that it has fined Sincere Pharmaceutical Group Ltd. ("Sincere") CNY 100.7 million (accounting for 2% of Sincere's 2019 sales) for abusing its dominant market position. According to SAMR's investigation, Sincere holds a dominant position in batroxobin active pharmaceutical ingredient ("API") sales market in China. When negotiating with one and the only batroxobin preparation company in China, Sincere attempted to acquire the downstream company's share and refused to sell batroxobin API separately. As a result, SAMR found this behavior to be an abuse of dominance without justified reasons to refuse to trade with the counterparty which excludes market competition and harms the consumers' welfare. ([More](#))

SAMR Publishes 5 Cartel Cases, 4 Associations and 47 Companies Fined over CNY 17m

On January 29, 2021, SAMR published dozens of penalty decisions in 5 horizontal monopoly agreement cases which were investigated by its provincial branches in Shanghai, Anhui, Hainan, Jiangsu and Zhejiang. 4 associations and 47 companies involved were fined and confiscated of illegal income for more than CNY 17 million. The cases involve different fields, including tourism transportation, insurance, fire safety technology testing, motor vehicle driver training and second-hand car trading market. In addition, two companies did not receive punishment. One did not have "sales revenue in the previous year" and the other applied the leniency system due to cooperation with the investigation. ([More](#))

SAMR Fines Huafa Property and JLL CNY 350,000 Each for Gun-jumping

On January 29, 2021, SAMR announced that it has fined Zhuhai Huafa Property Management Service Co., Ltd. ("Huafa Property") and Beijing Jones Lang LaSalle Property Management Service Co., Ltd. ("JLL") CNY 350,000 each for failure to notify the establishment of their joint venture, Zhuhai Huafa Jones Lang LaSalle Property Service Co., Ltd. The transaction met the filing thresholds but Huafa Property and JLL failed to fulfil their legal obligation by failing to notify the transaction. ([More](#))

New Subsidies Rules to Stimulate China's Provincial Antitrust Enforcement

On January 28, 2021, the Ministry of Finance and SAMR jointly issued the *Interim Measures for the Administration of Subsidies for Antitrust Work* ("Measures"). According to the Measures, subsidies for antitrust enforcement are subsidies that are used to help provincial market regulators to carry out antitrust enforcement under the authorization of SAMR. The subsidies are mainly provided through transfer payment and are used to cover the expenses that are directly related to the antitrust enforcement, including expenses of office, printing, meeting, commissioned business, travel, training, transportation, labor services and purchase of necessary law enforcement equipment. ([More](#))

SAMR Fines Xuefeng Investment CNY 300,000 for Gun-jumping

On January 28, 2021, SAMR announced that it has fined Xinjiang Xuefeng Investment Holding Co., Ltd. ("Xuefeng Investment") CNY 300,000 for failing to notify the acquisition of Xinjiang Yuxianghuyang Chemical Co., Ltd. ("Yuxianghuyang"). According to SAMR's investigation, from June to November 2018, Xuefeng Investment obtained a 39.5% stake in Yuxianghuyang through a capital increase and obtained control of the latter.

The transaction met the filing thresholds but Xuefeng Investment failed to fulfil its legal obligation of notifying the transaction. ([More](#))

China Cement Association Calls for Antitrust Compliance

On January 26, 2021, the China Cement Association (“CCA”) issued the *Notice on Further Learning and Complying with the Anti-Monopoly Law and Maintaining Fair Competition in the Cement Market* (“Notice”). The Notice underlines that CCA’s local branches shall study and comprehend the *Anti-Monopoly Law*, *Guide to the Anti-Monopoly Compliance of Undertakings* and other relevant laws and regulations. The CCA required its members to work with its local branches to regulate price behavior in the cement market and to improve the awareness and ability to operate in accordance with the law. The CCA also pointed out that local branches are prohibited from (i)organizing cement companies to collude and manipulate market prices, (ii)formulating rules, decisions, notices, etc. that exclude or restrict price competition, (iii)organizing cement companies to reach price monopoly agreements, and (iv) organizing cement companies to reach or implement other anti-competitive agreements. ([More](#))

China’s State Council Collecting Clues on Arbitrary Charges on Enterprises

On January 26, 2021, the General Office of the State Council of China issued *the Announcement on Collecting Clues on Arbitrary Charges on Enterprises* which identified several typical arbitrary charging practices, including intermediary agencies utilizing administrative functions or resources to monopolize operations, offer mandatory services, and charge unreasonable fees, as well as mandatory service charges or unreasonable charges in areas such as public utilities, transportation & logistics and maritime ports. The General Office will summarize the clues and urge the local governments and related departments to check and deal with the clues. ([More](#))

Chongqing AMR Publishes Antitrust Enforcement Performance in 2020

On January 25, 2021, Chongqing Municipal Administration for Market Regulation (“Chongqing AMR”) published its antitrust enforcement performance in 2020. In 2020, the Chongqing AMR concluded 2 horizontal monopoly agreement cases and 4 administrative monopoly cases in accordance with the law and completed the investigation of a suspected horizontal monopoly agreement case. The Chongqing AMR also conducted antitrust interviews and guidance on 15 online platforms and assisted SAMR to verify the suspected monopoly behaviors of certain online platforms. ([More](#))

Zhejiang AMR Publishes Antitrust Law Enforcement Performance in 2020

On January 25, 2021, Zhejiang Provincial Administration for Market Regulation (“Zhejiang AMR”) published its antitrust enforcement performance in 2020. In 2020, the Zhejiang AMR concluded 101 administrative monopoly cases, and organized special antitrust enforcement actions to perfect the business environment in Zhejiang Province, and imposed fines in 6 monopoly cases. In addition, Zhejiang Province also organized a special clean-up action on policies and measures that impede a unified market and fair competition. A total of 25,903 policy documents were cleaned up, and 349 were revised or abolished. ([More](#))

Overseas News

European Commission Opens Formal Antitrust Investigation into Possible Cross-Border Restrictions by Mondelēz

On January 28, 2021, the European Commission announced that it has opened a formal antitrust investigation to assess whether Mondelēz has restricted competition in a range of national markets for chocolate, biscuits and coffee by hindering the cross-border trade of these products between EU Member States. Mondelēz is one of the largest producers of chocolate, biscuits and coffee in the European Union. The Commission is concerned that Mondelēz may have restricted the so-called 'parallel trade' of its chocolates, biscuits and coffee between EU Member States through agreements and unilateral practices. Traders and retailers try to procure products in the internal market where the prices are lower and trade them to markets where prices are higher. This generally leads to price decreases in countries where prices are higher. Restrictions to such parallel trade can lead to the isolation of a national market whereby the manufacturer or supplier can charge higher prices to the detriment of consumers. Restrictions to parallel trade can also lead to less product diversity. ([More](#))

UK's CMA Issues Environmental Sustainability Agreements and Competition Law

On January 27, 2021, the UK's Competition & Markets Authority ("CMA") issued the *Environmental Sustainability Agreements and Competition Law* in order to help businesses achieve environmental sustainability goals whilst staying on the right side of competition law. The document outlines the current framework for the self-assessment of competition law risk and sets out the key points that businesses and trade associations should consider when making sustainability agreements. As CMA pointed out, it is important that competition law does not become an unnecessary obstacle to sustainable development, and that businesses are not deterred from taking part in lawful environmental initiatives for fear they may breach competition law. It is also important to make sure that markets remain competitive and open to innovation. ([More](#))

FTC Acting Chair Rebecca Kelly Slaughter Announces Interim Leadership Appointments

On January 25, 2021, Rebecca Kelly Slaughter, Acting Chair of the Federal Trade Commission unveiled a number of interim leadership changes. The interim appointments are: Reilly Dolan, Acting General Counsel; Daniel Kaufman, Acting Director of the Bureau of Consumer Protection beginning January 30; Maribeth Petrizzi, Acting Director of the Bureau of Competition following a brief transition period; Michael G. Vita, continue to serve as the Acting Director of the Bureau of Economics; and Sarah Mackey, Acting Director of the Office of Policy & Planning beginning January 30. ([More](#))

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