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2019年11月29日，北京知识产权法院发布新闻称，其已于近日不公开审理了原告海能达通信股份有限公司（“海能达”）诉被告摩托罗拉系统（中国）投资有限公司、摩托罗拉系统（中国）有限公司、摩托罗拉系统（中国）有限公司北京分公司（以下统称“摩托罗拉”）垄断纠纷一案。本案中，海能达请求法院判令摩托罗拉停止滥用市场支配地位行为并赔偿5千余万元。北京知识产权法院将择期作出判决。（[查看更多](#)）

Beijing IP Court Hears Hytera v. Motorola Antitrust Case

On 29 November 2019, Beijing Intellectual Property Court (“Beijing IP Court”) issued a news release saying that it had heard the antitrust case filed by Hytera Communications Corporation Limited (“Hytera”) against Motorola Systems (China) Investment Co., Ltd., Motorola Systems (China) Co., Ltd., and Motorola Systems (China) Co., Ltd. Beijing Branch (“Motorola”) for their abuse of dominance. In this case, Hytera claims compensation of more than CNY 50m. Beijing IP Court will make a judgment at a later date. ([More](#))

市场监管总局发布反垄断合规指南征求意见稿

2019年11月28日，国家市场监督管理总局（“市场监管总局”）发布了《经营者反垄断合规指南（公开征求意见稿）》并向社会公开征求意见。指南草案包含总则、合规管理制度、合规风险重点、合规风险管理、合规管理保障、附则等6章共计30条内容。市场监管总局欢迎有关单位和个人提出修改意见，并于2019年12月12日前反馈。（[查看更多](#)）

SAMR Invites Public Comment on Draft Antitrust Compliance Guidelines

On 28 November 2019, China’s State Administration for Market Regulation (“SAMR”) released the *Antitrust Compliance Guidelines for Undertakings (Draft for Public Comment)* (“Draft Guidelines”) to solicit the public’s opinion. The Draft Guidelines contains 30 articles, 6 chapters, including (i) General Rules, (ii) Compliance Management System, (iii) Important Compliance Risks, (iv) Compliance Risk Management, (v) Compliance Management Maintenance, and (vi) Supplementary Provisions. Suggestions and comments are welcomed and shall be submitted before 12 December 2019. ([More](#))

江苏宿迁一自来水公司因垄断行为遭罚没逾200万元

2019年11月26日，市场监管总局公布了由江苏省市场监督管理局查处的江苏宿迁正源自来水有限公司滥用市场支配地位案处罚决定书，对当事人没收违法所得约117.64万元并处罚款约87.76万元，罚没款合计约205.41万元。执法机构认定，当事人利用其在当地居民自来水供水市场上的支配地位要求房地产开发企业与其签订供水工程项目合同的行为，构成了滥用市场支配地位限定交易的垄断行为，违反了《反垄断法》第十七条的规定。（[查看更多](#)）

Jiangsu AMR Fines A Local Tap Water Company CNY 2m for Abuse of Dominance

On 26 November 2019, SAMR published the sanction decision in which the Administration for Market Regulation of Jiangsu Province (“**Jiangsu AMR**”) fined Jiangsu Suqian Zhengyuan Tap Water Co., Ltd. CNY 1,176,400 and confiscated the illegal gains CNY 877,600. The total of the fine and confiscation is over CNY 2m. Jiangsu AMR found that the company required real estate companies to sign water supply construction project contracts through its dominant market position in the local resident tap water supply market, which violated the provision on the restriction of transaction under Article 17 of the *Anti-Monopoly Law* (“**AML**”). ([More](#))

因设立合营企业未依法申报，皮尔博格、幸福摩托车各被罚35万元

近日，市场监管总局公布了对皮尔博格泵技术有限公司（“皮尔博格”）和上海幸福摩托车有限公司（“幸福摩托车”）设立合营企业未依法申报案的处罚决定书，对两家企业各处罚款35万元。2013年3月1日，皮尔博格和幸福摩托车签订合资协议，拟设立合资企业并分别持有其50%的股权。2013年6月18日，合资企业领取营业执照。市场监管总局认定，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 Pierburg, Xingfu Motorcycle CNY 350,000 Each for Gun-jumping

Recently, SAMR announced that it had fined Pierburg Pump Technology Co., Ltd (“**Pierburg**”) and Shanghai Xingfu Motorcycle Co., Ltd (“**Xingfu Motorcycle**”) CNY 350,000 each for gun-jumping. On 1 March 2013, Pierburg and Xingfu Motorcycle signed an agreement to set up a 50-50 joint venture. The parties failed to make notification filing regarding the deal before obtaining a business license for the joint venture on 18 June 2013, which violated the provisions on the concentration of undertakings under Article 21 of the *AML*. ([More](#))

海外动态 Overseas News

英国反垄断执法机构不满辉瑞8420万英镑罚单遭法院撤销，已提起上诉

2019年11月28日，据英国《金融时报》报道，英国竞争与市场管理局（Competition and Markets Authority, “**CMA**”）正在寻求恢复其对美国制药巨头辉瑞（Pfizer）及经销商Flynn开出的创纪录反垄断罚单。2016年12月，CMA认定，辉瑞与Flynn大幅提高该药品价格的行为构成了滥用市场支配地位行为，对二者分别处以8420万英镑和520万英镑的罚款。辉瑞与Flynn不服，提起行政诉讼。2018年6月，英国竞争上诉法庭判决CMA败诉。随后，CMA上诉。（[查看更多](#)）

UK Antitrust Watchdog Seeks to Reinstate A Record Fine Against Pfizer and Flynn

On 28 November 2019, *Financial Times* reported that the UK’s Competition and Markets Authority (“**CMA**”) was trying to reinstate a record fine against drug companies Pfizer and Flynn for raising the price of an anti-epilepsy drug. In December 2016, the CMA concluded that both companies had abused their dominant position by charging excessive and unfair prices, and fined Pfizer GBP 84.2m and Flynn GBP 5.2m. In June 2018, the UK’s Competition Appeals Tribunal upheld Pfizer’s appeal against the fine. The CMA later appealed. ([More](#))

美国司法部结束对GSMA有关eSIMs标准制定行为的反垄断调查

2019年11月27日，美国司法部反垄断局宣布结束对全球移动通信系统协会（GSM Association，“GSMA”）有关标准制定行为的为期近两年的反垄断调查。调查发现，近年来，GSMA利用其行业影响力引导移动设备中的eSIMs技术设计。为了回应调查，GSMA已起草新的标准制定程序，将吸收来自非运营商成员的更多意见。反垄断局表示，GSMA提出的变更措施能够解决之前的竞争担忧，目前无意对GSMA或其移动网络运营商成员采取进一步执法行动。（[查看更多](#)）

DOJ Issues Business Review Letter to the GSMA Related to Innovative eSIMs Standard for Mobile Devices

On 27 November 2019, the Department of Justice’s (“DOJ”) Antitrust Division announced that it completed a nearly two-year long investigation into the standard-setting activities of the GSM Association (“GSMA”). The Antitrust Division’s investigation revealed that, in recent years, the GSMA used its industry influence to steer the design of eSIMs technology in mobile devices. In response to the investigation, the GSMA had drafted new standard-setting procedures that would incorporate more input from non-operator members of the mobile communications industry. The letter concluded, that the proposed changes appeared to adequately address those concerns. In light of these planned changes, the Antitrust Division had no present intention to bring an enforcement action against the GSMA or its mobile network operator members. ([More](#))

美国陪审团认定垄断成立，望远镜厂商舜宇电子恐面临近5000万美元赔偿

2019年11月26日，据Law360报道，美国加利福尼亚州一联邦陪审团认定，中国望远镜生产商宁波舜宇电子有限公司违反了美国联邦反垄断法，压制了竞争并合谋操纵了美国消费及望远镜的价格，导致竞争对手Orion Telescopes & Binoculars损失了1680万美元（约合人民币1.18亿元）。据悉，由于美国反垄断法的“三倍赔偿”机制，该案的最终赔偿金额可能接近5000万美元（约合人民币3.51亿元）。（[查看更多](#)）

Chinese Telescope Co. Hit with USD 16.8m Antitrust Verdict

On 26 November 2019, *Law360* reported that a California federal jury found that Chinese telescope seller Ningbo Sunny Electronic Co. Ltd. suppressed competition and conspired to fix the price of consumer telescopes in the U.S. in violation of federal antitrust laws, concluding that it owes USD 16.8m in damages to rival Orion Telescopes & Binoculars. Damages are trebled under the *Sherman Act*, so the final judgment will likely be closer to USD 50m. ([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。



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