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市场监管总局对互联网领域二十二起违法实施经营者集中案作出行政处罚决定

2021年7月7日，国家市场监督管理总局（“市场监管总局”）依法对互联网领域二十二起违法实施经营者集中案作出行政处罚决定。经查，二十二起案件均违反《反垄断法》第二十一条，构成违法实施经营者集中。总局依据《反垄断法》第四十八条、四十九条，对涉案企业分别处以50万人民币罚款。（[查看更多](#)）

SAMR Issues Penalty Decisions on Twenty-two Cases of Gun-jumping in the Internet Field

On July 7, 2021, the State Administration for Market Regulation (“SAMR”) made administrative penalty decisions on twenty-two cases of gun-jumping in the Internet field in accordance with the law. It was found that all the twenty-two cases violated Article 21 of the *Anti-Monopoly Law* and constituted illegal implementation of concentration. In accordance with Article 48 and 49 of the *Anti-Monopoly Law*, the SAMR imposed fines of CNY 500,000 on the enterprises involved in the cases respectively. ([More](#))

五部门联合发布《公平竞争审查制度实施细则》

2021年7月9日，市场监管总局等五部门联合发布《公平竞争审查制度实施细则》（“《细则》”），在审查机制和程序、审查标准、第三方评估以及监督与责任追究等方面进行了详细规定。《细则》统筹力度更大、审查标准更高、监督考核更严，其对市场准入和退出标准做出了细化规定，如没有法律、行政法规或者国务院规定依据，不得设置不合理或者歧视性的市场准入和退出条件，未经公平竞争不得授权经营者特许经营权等。（[查看更多](#)）

Five Departments Jointly Issue Rules for the Implementation of the Fair Competition Review System

On July 9, 2021, the SAMR and four other departments jointly issued the *Implementation Rules of the Fair Competition Review System* (“*Rules*”), which stipulates review mechanism and procedures, review criteria, third-party assessment, and supervision and accountability and other aspects in detail. The *Rules* have greater overall planning, higher review standards, and stricter supervision and assessment, and they make detailed provisions on market access and exit criteria, such as ‘without the basis of laws, administrative regulations or regulations of the State Council, no unreasonable or discriminatory market access and exit conditions could be set; no operator shall be authorized to franchise before fair competition’, etc. ([More](#))

河南省市监局依法纠正洛阳市城管局行政垄断行为

2021年7月2日，河南省市场监督管理局发布关于依法纠正洛阳市城市管理局（“洛阳城管局”）滥用行政权力排除、限制竞争行为的通告。经查，洛阳城管局要求三家共享单车公司与各区环

卫部门、河南控尘公司共同承担共享单车的停放管理。2020年3月，洛阳城管局以招投标的方式确定上海钧正网络科技有限公司为洛阳市城区唯一一家共享单车经营企业，并在双方签订的《共享单车管理与服务合作协议》中约定“期限届满后，甲方再招标时，同等条件下，优先考虑乙方”。未中标企业被要求于招标结束后十日内无条件退出洛阳地域市场。上述行为违反了《反垄断法》第32条和第37条的规定。因此，省市场监管局向洛阳市人民政府发出《行政建议书》，建议洛阳市人民政府责令洛阳城管局改正相关行为，恢复相关市场的公平竞争审查。

([查看更多](#))

Henan AMR Corrects the Administrative Monopoly Conduct by Luoyang Urban Management Bureau

On July 2, 2021, Henan Province Administration of Market Regulation (“**Henan AMR**”) issued a notice on correcting the abuse of administrative power by the Luoyang Urban Management Bureau to exclude and restrict competition in accordance with the law. It was found that the Luoyang Urban Management Bureau required three bike-sharing companies to share the parking management of shared bicycles with the sanitation departments of the districts and Henan Dust Control Company. In March 2020, the Luoyang Urban Management Bureau identified Shanghai Junzheng Network Technology Co., Ltd. as the only operating company of bike-sharing in the urban area of Luoyang City by way of bidding, and agreed in the "Bike-sharing Management and Service Cooperation Agreement" signed by both parties that "After the expiration of the term, Party A will give priority to Party B under the same conditions when bidding again". The unsuccessful bidders were required to unconditionally withdraw from the geographical market of Luoyang within ten days after the end of the bidding. The above actions violated the provisions of Article 32 and 37 of the *Anti-Monopoly Law*. Therefore, Henan AMR issued an administrative proposal to the Luoyang Municipal People's Government, recommending that it to order the Luoyang Urban Management Bureau to rectify the relevant behaviors and resume the fair competition review of the relevant market. ([More](#))

市场监管总局修改两部行政处罚程序相关规章，规范反垄断执法

2021年7月6日，国家市场监管总局发布公告，决定对《市场监督管理行政处罚程序暂行规定》（“《程序规定》”）和《市场监督管理行政处罚听证暂行办法》的部分条款予以修改，统一和规范行政执法和处罚程序。其中《程序规定》将执法期限统一修改为按工作日进行计算；增加了异地管辖内容，规定上级市场监管部门有权直接查处下级部门管辖的案件，也可指定其他下级部门管辖，有利于解决跨区域互联网垄断案件的调查难题。 ([查看更多](#))

SAMR Amends Two Regulations Related to Administrative Penalty Procedures to Regulate Anti-Trust Enforcement

On July 6, 2021, the SAMR issued a circular, deciding to amend some of the provision of the Interim Provisions on Administrative Punishment Procedures of Market Supervision and Administration ("Procedural Provisions") and the Hearing on Administrative Punishment of Administration of Market Regulation Provisional Measures aiming at standardizing administrative law enforcement and penalty procedures. Among them, the Procedural Provisions revise the enforcement period to be calculated on the basis of working days; increase the provision of off-site jurisdiction, which stipulates that higher

market supervision departments have the right to directly investigate and handle cases belonging to the jurisdiction of lower departments, and may also designate other lower departments to have jurisdiction, which is conducive to solving the investigation difficulties of cross-regional Internet monopoly cases. ([More](#))

《深圳经济特区数据条例》出台，保护数据要素市场竞争

2021年7月6日，深圳市人大常委会公布《深圳经济特区数据条例》（“《条例》”），并将于2022年1月1日起实施。该《条例》是国内数据领域首部综合性立法，对数据获取、数据处理、数据竞争等方面进行了规定。《条例》第70条明确规定，市场主体不得通过达成垄断协议、滥用数据要素市场的支配地位、违法实施经营者集中等方式，排除、限制竞争，该条衔接了《反垄断法》规范，并创新性地提出了“数据要素市场”的概念，有利于规范数据竞争。（[查看更多](#)）

The Shenzhen Special Economic Zone Data Regulations Published to Protect Competition in the Market for Data Elements

On July 6, 2021, the Standing Committee of the Shenzhen People's Congress announced the *Shenzhen Special Economic Zone Data Regulations ("Regulations")*, which will come into effect on January 1, 2022. The *Regulations* are the first comprehensive legislation in the field of data in China, which stipulates data access, data processing, data competition and other aspects. Article 70 of the *Regulations* clarifies that market players shall not exclude or restrict competition by entering into monopoly agreements, abuse the dominant position in the data elements market, or unlawfully implement concentration, etc. This article links with the *Anti-Monopoly Law* and innovatively introduces the concept of "data elements market", which is conducive to regulating data competition. ([More](#))

海外动态 Overseas News

美国36州及华盛顿特区起诉Google违反反垄断法

2021年7月7日，美国三十六州及华盛顿特区联合对谷歌提起诉讼，指控谷歌违反反垄断法。据报道，谷歌计划向应用商店中应用程序开发商收取30%的佣金。诉状称，谷歌通过排他性合同、技术性壁垒和“误导性”安全警告的方式排除安卓应用程序分销市场上的潜在竞争者。这一行为限制了开发商的选择，使其被迫提高价格，最终损害了消费者的利益。（[查看更多](#)）

36 U.S. States and Washington, D.C. Sue Google for Antitrust Violations

On July 7, 2021, thirty-six U.S. states and Washington, D.C. filed a joint lawsuit against Google alleging antitrust violations. Google reportedly plans to collect a 30 percent commission from App developers in its App store. The suit alleges that Google excludes potential competitors in the distribution market of Android App through exclusive contracts, technical barriers and "misleading" security warnings. This practice limits developers' choices and forces them to raise prices, ultimately to the detriment of consumers. ([More](#))

KFTC对国内电子商务巨头Coupang展开反垄断调查

2021年7月4日，据报道，韩国公平交易委员会（“KFTC”）已对国内电子商务巨头Coupang开展反垄断调查，并于上月底，对Coupang总部办公室进行了实地调查。据悉，Coupang面临多项指控，包括在其平台上干扰搜索算法运行，使其自有品牌产品展示在页面顶端，而其他公司产品被推至底部从而获得更少曝光率；威胁供应商提供尽可能便宜的价格；强迫供应商购买广告，并将广告订阅和邮递服务进行“捆绑”，通过拒绝提供邮递服务实施报复。（[查看更多](#)）

KFTC Launches Antitrust Investigation of Domestic E-Commerce Giant Coupang

On July 4, 2021, it was reported that the Korea Fair Trade Commission ("KFTC") has launched an anti-trust investigation against domestic e-commerce giant Coupang and, at the end of last month, conducted a field investigation at Coupang's headquarters office. Coupang is reportedly facing several charges, including interfering with the operation of search algorithms on its platform so that its own-brand products are displayed at the top of the page while other companies' products are pushed to the bottom, thereby gaining less exposure; threatening suppliers with the cheapest possible prices; forcing suppliers to buy ads and "bundling" ad subscriptions with mail delivery services "retaliation by refusing to provide postal services. ([More](#))

FTC指控Broadcom非法垄断并命令其停止反竞争行为

2021年7月2日，美国联邦贸易委员会（the Federal Trade Commission, “FTC”）提起诉讼指控博通公司（Broadcom）在半导体元件市场中从事排他交易等非法垄断行为。据称，博通通过与原始设备制造商（OEMs）以及宽带服务提供商签订长期协议，以限制这些客户从其竞争对手处购买芯片，从而非法地维持其在相关市场中的垄断地位。不仅如此，博通还利用其在相关市场中的垄断地位要求客户作出排他性和忠诚型承诺，而这些承诺阻止了其竞争对手针对客户业务进行竞争。委员会同时发布了一个建议承诺令，在该承诺令下，博通被禁止与客户签订特定类型的独家协议，同时还必须停止以提供相关芯片的排他协议或忠诚协议为条件，限制客户获得这些芯片的访问权或要求提供有利的供应条件，博通也被禁止向与其竞争对手交易的客户实施报复。（[查看更多](#)）

FTC Charges Broadcom with Unlawful Monopolization and Orders it to Stop Anti-competitive Conduct

On July 2, 2021, the Federal Trade Commission ("FTC") filed suit alleging that Broadcom engaged in exclusive dealing in the market for semiconductor components. Broadcom allegedly unlawfully maintained its monopoly in the relevant markets by entering into long-term agreements with OEMs and broadband service providers to restrict these customers from purchasing chips from its competitors. In addition, Broadcom used its monopoly position in the relevant markets to require customers to make exclusive and loyal commitments that prevented its competitors from competing for their business. The Commission also issued a proposed commitment order under which Broadcom is prohibited from entering into certain types of exclusivity agreements with customers and must also cease conditioning the provision of exclusivity or loyalty agreements on the provision of relevant chips, restricting customers' access to those chips or requiring favorable terms of supply, and Broadcom is prohibited from retaliat-

ing against customers who deal with its competitors. ([More](#))

CMA就是否对摩托罗拉的无线网络开展市场调查进行咨询

2021年7月8号，英国竞争和市场管理局（“CMA”）就是否对摩托罗拉（Motorola）的无线网络开展市场调查征询意见。CMA表达了对摩托罗拉的双重角色的担忧，即该公司既是目前提供移动无线网络的公司（Airwave Solutions）的所有者，又是计划推出的新“应急网络服务”（ESN）的关键供应商。英国政府担心摩托罗拉的Airwave业务可能会影响其提供ESN的激励（ESN最初在2013年提出，旨在取代现有的Airwave无线通信平台），并提高无线网络供应价格，从而损害纳税人的利益。CMA在征询中提供了两种可能的解决方案：一是调节摩托罗拉关于Airwave网络的回报率；二是要求摩托罗拉出售Airwave网络。 ([查看更多](#))

CMA Consults on Whether to Conduct Market Research on Motorola's Radio Network

On July 8, 2021, the UK's Competition and Markets Authority ("CMA") asked for comments on whether to conduct a market investigation into Motorola's radio network. The CMA expressed concern about Motorola's dual role as both the owner of the company that currently provides the mobile radio network (Airwave Solutions) and as a key provider of the planned new "emergency network service" (ESN). The UK government is concerned that Motorola's Airwave business could undermine its incentives to provide ESN and increase the price of wireless network provision, to the detriment of taxpayers. The CMA offered two possible solutions in its request for proposals: one was to regulate Motorola's rate of return on the Airwave network; the other was to require Motorola to sell the Airwave network. ([More](#))

宝马、大众因卡特尔行为被欧盟处以8.7亿欧元罚款

2021年7月8日，欧盟委员会对戴姆勒、宝马和大众集团在一氧化氮清洗领域串通合谋损害技术开发违反欧盟竞争法规定的行为开出8.7亿欧元罚单。戴姆勒因向欧盟委员会披露卡特尔行为获得完全豁免。经调查发现，戴姆勒、宝马、大众集团达成限制技术开发的卡特尔协议，合谋串通避免未来市场对比法律要求更先进的技术的不确定性，限制了与消费者相关产品的竞争。 ([查看更多](#))

BMW, VW Fined Euro 870 Million by EU for Cartel

On July 8, 2021, the European Commission fined Daimler, BMW and Volkswagen Group Euro 870 million for collusion and conspiracy to impair technology development in the field of nitric oxide cleaning in violation of EU competition law. Daimler was granted full immunity for disclosing cartel conduct to the European Commission. The investigation found that Daimler, BMW, and Volkswagen Group entered into a cartel agreement to restrict technology development, conspired to avoid uncertainty about future markets for technologies more advanced than those required by law, and restricted competition in consumer-related products. ([More](#))

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