



# NEWSLETTER

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## 立方竞争法周报

Weekly Competition Law News

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## 1、国家市场监管总局：关于开展反不正当竞争执法重点行动的公告

新修订的《反不正当竞争法》已于2018年1月1日起正式实施。为全面贯彻党的十九大精神，进一步促进《反不正当竞争法》实施，营造公平竞争的市场环境，市场监管总局决定，自2018年5月至10月，在全国范围内开展反不正当竞争执法重点行动。此次执法行动，重点围绕网络交易、农村市场、医药、教育等行业和领域，集中整治社会关注度高、反映强烈的市场混淆、商业贿赂、虚假宣传以及涉网不正当竞争等突出问题，切实维护公平竞争市场秩序，维护经营者、消费者合法权益。

国家市场监管总局欢迎社会各界和消费者向当地工商和市场监督管理部门投诉举报有关违法行为，加强社会监督和社会共治，共同营造公平、公正的营商环境。【1】

### SAMR: Notice on Carrying Out Enforcement Actions against Unfair Competition

The newly revised Competition Law has been formally implemented since January 1, 2018. In order to fully implement the spirit of the 19th CPC National Congress, further promote the implementation of Competition Law and create a fair market environment, the State Administration for Market Regulation ("SAMR") decided to carry out enforcement actions against unfair competition nationwide from May to October, 2018. The enforcement actions focused on industries and fields such as online trading, rural markets, medicine and education. They also focused on resolving prominent issues of high social concern, such as market confusion, commercial bribery, false propaganda, and unfair competition involving the Internet, and so on. And the SAMR will conscientiously maintain a fair market order and protect the legitimate rights and interests of business operators and consumers.

The SAMR welcomes all sectors of society and consumers to complain and report relevant illegal behaviors to local AIC and market regulation and management departments, strengthening social supervision and social co-governance, and jointly creating a fair competition environment.

## 2、东芝18亿美元出售内存芯片业务通过中国反垄断审查，交易预计于6月1日完成

日本东芝公司周四表示，其计算机内存芯片业务将出售给由贝恩资本私募股权公司牵头的财团公司，该交易已通过包括中国在内的所有反垄断监管机构的批准。这意味着该笔价值2万亿日元（180亿美元）的交易预计于6月1日完成。拥有铁路和核能业务的东芝公司正期待该笔交易带来转机。

受累于两年前核电业务的巨额亏损，为解决债务问题，东芝决定出售内存芯片业务。最终，K.K. Pangea于2017年9月赢得了这场漫长且极具争议的收购争夺。Pangea公司是由贝恩资本私募股权公司牵头的财团组建并控制的，其目的就是为了收购TMC（东芝存储器公司）的所有股份，并且尽快推动交易的完成。

【1】 [http://samr.saic.gov.cn/gg/201805/t20180517\\_274217.html](http://samr.saic.gov.cn/gg/201805/t20180517_274217.html)



中国商务部于2017年12月对该笔交易开启反垄断审查。2018年5月17日,双方确认已通过所有必要的反垄断机构的审批,并且已满足完成交易所需的所有条件。双方将进行结束交易的必要程序,预计于2018年6月1日完成。

### **China Approved Toshiba's \$18 Bln Sale of Its Memory-Chip Unit, and the Deal Is Expected to Close on June 1**

Japanese company Toshiba Corp. said Thursday the sale of its computer memory chip business to a consortium led by Bain Capital Private Equity has cleared all anti-trust regulatory approval, including one it was awaiting from China. That means the deal, valued at 2 trillion yen (\$18 billion), can now close by June 1. Toshiba, which also has railroad and nuclear energy units, was counting on the deal for a turnaround.

Affected by the huge loss of nuclear power business two years ago, Toshiba decided to sell the memory chip business to solve the debt problem. In the end, K.K. Pangea won this long and controversial acquisition in September 2017. K.K. Pangea was formed and controlled by a consortium led by Bain Capital Private Equity, in respect of the sale of all of the shares of TMC (Toshiba Memory Corporation), and that it aimed to close the transaction as soon as possible.

The MOFCOM started the review of the sale in December 2017. On May 17, 2018, the parties confirmed that all required anti-trust approvals have been granted, and that all conditions for the closing of the transaction are now satisfied. The parties will now take necessary procedures to close the transaction, which is currently expected to occur on June 1, 2018. 【2】

### **3、微芯科技收购美高森美已通过中国反垄断审查**

路透社消息, 5月15日, 微芯科技收购同业美高森美的交易通过了中国反垄断审查, 这是自去年八月份审查通过博通收购博科案以来首个获批的美国技术领域案件。该笔价值83.5亿美元的交易在达成收购协议后三个月内得到批准, 这表明中美之间贸易紧张局势正在缓和。中国商务部批准这一交易是在美国总统特朗普决定重新考虑对中国中兴公司违反美国对伊朗贸易制裁条款的惩罚之后。该笔交易目前已获得美国、日本、德国反托拉斯机构批准, 预计于5月底6月初完成, 该交易将巩固微芯科技在计算和通信领域的根基。

### **Microchip Clears China Antitrust Hurdle for Microsemi Deal**

(Reuters) – on May 15, Microchip Technology Inc. received antitrust clearance from China to buy rival Microsemi Corp, marking the first approval of a major technology deal by the country since the Broadcom-Brocade deal in August. The go-ahead to the \$8.35 billion acquisition comes in less than three months after the companies struck the deal, indicating that trade tensions between the United States and China were easing. The approval from China's MOFCOM comes days after U.S. President Donald Trump decided to revisit penalties for Chinese company ZTE Corp for flouting U.S. sanctions on trade with Iran. The deal, which has already received antitrust approval in the United States, Japan and Germany, is expected to close in late May or early June and will strengthen Microchip's base in the computing and communications sectors. 【3】

【2】 <https://nz.news.yahoo.com/toshibas-chip-sale-consortium-wins-123838806.html>

<http://www.digitimes.com/news/a20180517PD210.html?mod=2>

#### 4、瑞幸咖啡起诉星巴克涉嫌垄断

瑞幸咖啡5月15日对外发布致星巴克的公开信。内容涉及：星巴克作为有市场支配地位的经营 者，与很多写字楼物业签订的“店铺租约”中存在排他性条款，并且向多家供应商施压，要求他们 “站队”并停止向瑞幸咖啡供货，其行为涉嫌违反《反垄断法》第14条、17条规定。为此，瑞幸咖啡决定将陆续在全国相关城市法院起诉星巴克涉嫌滥用市场支配地位，并向国家反垄断局执法部门 进行投诉。星巴克回复回应称：“中国咖啡市场体量巨大、竞争充分，自己无意参与其他品牌的市 场炒作，欢迎有序竞争。” 【4】

瑞幸咖啡起诉星巴克涉嫌垄断案已于16日正式立案，相关投诉材料也已经向国家相关机构提 交并被受理。 【5】

#### Luckin Coffee Has Sued Starbucks for Abuse of Dominance

On May 15, Luckin Coffee released an open letter to Starbucks. The content involved: Starbucks, an operator with dominant market position, has exclusive clauses in its store leases with many office buildings' property services enterprises; and Starbucks has pressured on suppliers to pick sides and stop supplying to Luckin Coffee, which violated Articles 14 and 17 of the Anti-Monopoly Law. For this reason, Luckin Coffee decided to file a civil lawsuit in relevant city and a complaint with the antitrust authority againsts Starbucks over abuse of dominance. Starbucks responded that "The Chinese coffee market is huge and competitive. It had no intention to join other brands' commercial speculation. Orderly competition is welcome."

The suit filed by Luckin Coffee alleging Starbucks for abuse of dominance has been accepted on May 16, and relevant complaint materials have also been submitted to relevant authorities and have been accepted.

【3】 <https://uk.finance.yahoo.com/news/microchip-gets-china-antitrust-approval-buy-microsemi-121510334--finance.html?guccounter=1>

【4】 [http://news.cyol.com/yuanchuang/2018-05/17/content\\_17195773.htm](http://news.cyol.com/yuanchuang/2018-05/17/content_17195773.htm)

【5】 [http://finance.ifeng.com/a/20180517/16285821\\_0.shtml](http://finance.ifeng.com/a/20180517/16285821_0.shtml)



## IMPORTANT INFORMATION

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