Implementation Rules for the Fair Competition Review System
Revision Introduction

— Exchange Draft of China-EU Competition Week

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On June 1, the State Council issued the *Opinions on Establishing A Fair Competition Review System in the Building of the Market System (GF [2016] No. 34)* to make comprehensive arrangements for the establishment and implementation of a fair competition review system.

The *Implementation Rules for the Fair Competition Review System (Interim)* were issued.

The fair competition review system is applied by governments at national, provincial, municipal and county levels.

By 2020

About 1.89 million policies and measures were cleared, and nearly 30,000 were abolished and revised; 857,000 new policies and measures were reviewed, and more than 4,100 were revised and adjusted.
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Revision Background and Main Considerations
Fair competition is the core of the market economy. Improving the fair competition system and implementing the fair competition review system is an important part of building a high-level socialist market economy system.

The Fourth Plenary Session of the 19th CPC Central Committee
Implement the fair competition review system

The Fifth Plenary Session of the 19th CPC Central Committee
Improve the fair competition review mechanism

The 14th Five-Year Plan and the Outline of the Long-term Goals for 2035
Make special deployment to strengthen the fundamental position of competition policy
Require the improvement of the competition policy framework
Construct a competition policy implementation mechanism covering all aspects before, during and after the event
Revision Background and Main Considerations

The Need for Thorough Implementation of the Fair Competition Review System

1. Complete coverage
2. Complete rules
3. Well-defined power and responsibility
4. Efficient operation
5. Effective supervision

Notice from Four Departments Including the State Administration for Market Regulation regarding Further Promoting Fair Competition Review
Objective requirements of world economic development: International economic connectivity and exchanges

International community: There are concerns about the prospects of economic globalization.

General Secretary Xi Jinping stressed that:

- The door to China's opening-up will not be closed, but will be opened wider and wider.
- The level of opening-up to the outside world should be comprehensively improved.
- A new system of open economy at a higher level should be built.

It is necessary to revise the Implementation Rules (Interim), better align them with the internationally accepted competition rules and more effectively regulate and protect fair competition. This is an urgent requirement for building a new system of a higher-level open economy.
Revision Process and Features
On the basis of adequately studying the present situation of China's economic and social development, it is necessary to make use of the practical experience in implementing the fair competition review system in recent years, absorb the latest development achievements of foreign relevant systems, and carry out theoretical research, field investigation, work discussion and extensive consultation to ensure the completion of the revision.
It is necessary to strictly follow the institutional framework and basic rules of the *Opinions of the State Council on Establishing A Fair Competition Review System in the Building of the Market System* (GF [2016] No. 34), and further refine and improve the relevant regulations. Meanwhile, it is also important to align with the existing laws, administrative regulations and State Council regulations.
Revision Process and Features

Strengthening the Rigid Constraints of the System

- Improve the rules
- Optimize the mechanism
- Strengthen the supervision
- Enhance the guarantee

Ensure higher quality and effectiveness of the review, effectively improve the authority and efficiency of the system, and promote the implementation of the fair competition review system.
Revision Process and Features
Aligning with International Rules

It is necessary to fully absorb and learn from the experience of relevant foreign systems, actively align with the internationally accepted rules, and strive to build a fair competition review system in line with China's economic development stage and characteristics, to better serve the high-level opening up and promote high-quality economic development.
In this revision, 2 articles are to be retained, 8 articles are to be added, and 21 articles are to be modified.

6 chapters, 26 articles  
Before revision  

Implementation Rules  

After revision  

After revision: 7 chapters, 31 articles  

7 chapters: General Provisions; Review Mechanism and Procedures; Review Standards; Exceptions; Third-party Evaluation; Supervision and Accountability; Supplementary Provisions
Main Contents to be Revised:

General Provisions

- Fully implement the fair competition review system.
- Strengthen the functions of inter-ministerial joint meetings, local people's governments and joint meetings at all levels.
- Improve the fair competition review mechanism and establish a joint review mechanism for major measures.
- Specify the purpose
- Specify the scope of "other policy measures"
- Policy documents other than regulations and normative documents, as well as specific policy measures in the form of "one case one meeting".
Review Mechanism and Procedure

- **Optimize the review method:** Carry out and promote unified review among policy-making agencies, standardize the basic review process, make clear review conclusions, and improve the procedures for soliciting opinions from interested parties.

- **Building an expert database:** Add the provisions on establishing an expert database for fair competition review, and make it available for policy-making agencies for consultation.

- **Improve the review mechanism:** Improve the dispute coordination mechanism, optimize the information submission, reporting and other working mechanisms for fair competition review, and further improve the regular assessment and clearing mechanism.
Review Standard

### I. Market access and exit

Improve and standardize certain provisions, make additions to the provisions on "no unreasonable or discriminatory conditions for access and exit", and further remove barriers to market access and exit.

### II. Free flow of goods and commodities

Diversify and refine the review criteria, improve the provisions that exclude and restrict bidding, and unblock channels for the flow of goods and commodities.

### III. Impact on the production and operation costs

Standardize the relevant statements, standardize and improve the provisions regarding the preferential policies, and provision or withholding of various kinds of deposits that may affect the production and operation costs, to ensure that various market players have equal access to production factors.

### IV. Impact on the production and operation behavior

Standardize and refine the provisions regarding the monopolistic practices that may affect production and operation, give full play to the decisive role of market allocation of resources, and promote fair competition in the market.
Countries around the world are facing new challenges in emerging fields such as the digital economy.

COVID-19 pandemic and other disasters

Add "science and technology security" and "public health and safety", support the innovation-driven development and safeguard people’s lives.
Main Contents to be Revised

Third-party Evaluation

01 Make provisions on the third-party evaluation of fair competition review in a special chapter, and properly align with the *Guidelines for Implementation of Third-Party Evaluation of Fair Competition*.

02 Establish a clear third-party evaluation mechanism for fair competition review, and establish the stages and links of introducing third-party evaluation.

03 Make provisions on the application of the third-party evaluation results and the guarantee of funds.
Improve the reporting and accountability mechanism, increase reporting channels, clarify the accountability for violation of the review standards, and properly align with accountability methods for violation of the *Anti-Monopoly Law*.

Establish a regular reporting mechanism for policies and measures, clarify the reporting department, the content reported, the results of the reporting, and local reporting mechanism construction.

Strengthen the fair competition review and assessment mechanism, request that governments at all levels to establish a sound fair competition review and assessment system, evaluate the implementation of the system, and enhance the application, effectiveness and efficiency of the system.
Supplementary Provisions

Encourage all regions and departments to actively explore innovative measures conducive to the implementation of the fair competition review system.
During the 14th Five-Year Plan period, China’s economic and social development main objective includes “the establishment of a high-standard market system and making the market player full of vitality” and “to further improving the fair competition system”.

01 Promotion and protection of fair competition among market players

02 Mobilizing the enthusiasm and creativity of various market players, and stimulate the vitality of market players

03 Accelerating the construction of a high-standard market system

04 Promotion of a new development pattern with the great domestic cycle as the main body and the mutual promotion between domestic and international cycles

05 Building a market-oriented, law-based and internationalized business environment
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