
Anti-monopoly Legislation and Organization

Legal Affairs Division

March 2022

I. Revision Progress of the Anti-monopoly Law

- In October 2021, the 31st Session of the Standing Committee of the 13th National People's Congress (NPC) deliberated on the Anti-Monopoly Law (Draft Amendments), and invited public comments on it.
- In December 2021, the spokesperson of the Legislative Affairs Commission of the NPC Standing Committee introduced the situation of the public comments on the Anti-Monopoly Law (Draft Amendment) at a press conference held by the Legislative Affairs Commission of the NPC Standing Committee. Currently, the Anti-monopoly Law is still in the process of revision.
- According to the public version of the Anti-monopoly Law (Draft Amendment), the revision mainly involves fair competition review, anti-monopoly in key areas, "safe harbor" rule for monopoly agreements, determination of abuse of dominant market position, concentration review of business operators, administrative monopoly, anti-monopoly public interest litigation, legal liability and other issues.

II. Revision Plan of Legislation Supporting Anti-monopoly

- In order to implement the "Anti-monopoly Law (Amendment)", further improve the anti-monopoly legal system based on the "Anti-monopoly Law", and enhance the pertinency and effectiveness of the anti-monopoly legal system, a comprehensive revision of the legislation supporting anti-monopoly is proposed to be made, and the content that need to be revised has been put forward according to the "Anti-monopoly Law (Amendment)". The specific content to be revised needs to be adjusted according to the final revised version of the Anti-monopoly Law.

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- (i) Regulations of the State Council on the Notification Criteria for Concentration of Business Operators. Optimizing the criteria for concentration notification of business operators and improving the perspectiveness, pertinency and scientificity of the anti-monopoly regulation.
 - (ii) Interim Provisions on Prohibiting Monopoly Agreements. Adding the factors to be taken into account in determining whether a business operator has organized or assisted other business operators to reach monopoly agreements; concentratedly revising the factors to be taken into account regarding the effect of excluding or restricting competition that the vertical monopoly agreement has; adding the "safe harbor" rule for monopoly agreements; and improving provisions regarding legal liability.
 - (iii) Interim Provisions on Prohibiting Abuse of Dominant Market Position. Improving the factors to be taken into account in determining whether a business operator market in the digital market has the dominant market position or abuses the dominant market position; improving provisions regarding legal liability.

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- (iv) Interim Provisions on Concentration Review of Business Operators. Adding the "stop-clock" rule; amending the provisions related to the investigation of concentration of business operators that does not meet the notification criteria but has or may have an effect of excluding or restricting competition; improving provisions regarding legal liability.
 - (v) Interim Provisions on Preventing Abuse of Administrative Power to Exclude or Restrict Competition. Adding provisions against "excluding or restricting competition by means of cooperation agreements, memoranda, etc." and other similar provisions to regulate government-enterprise cooperation; establishing a system of regulatory talks.
 - (vi) Provisions on Prohibiting Abuse of Intellectual Property Rights to Exclude or Restrict Competition. Revising or refining relevant provisions; improving provisions regarding legal liability.

III. Anti-monopoly Institution Reform

- (a) the State Administration for Market Regulation has become “the institution with two names”, with an additional name “State Anti-Monopoly Bureau”, to enhance the anti-monopoly regulatory strength, and established the Competition Policy Coordination Department, the Anti-Monopoly Enforcement Directorate 1 and the Anti-Monopoly Enforcement Directorate 2, which are responsible for anti-monopoly work. The Anti-Monopoly Bureau under the State Administration for Market Regulation has been abolished
- 1. The Competition Policy Coordination Department is responsible for coordinating and promoting the implementation of competition policies and the comprehensive coordination of anti-monopoly work.
- 2. The Anti-Monopoly Enforcement Directorate 1 is responsible for the anti-monopoly enforcement work regarding monopoly agreements, abuse of dominant market position or intellectual property rights to exclude and restrict competition, etc.
- 3. The Anti-Monopoly Enforcement Directorate 2 is responsible for concentration review of business operators.

- The institution reform attaches importance to anti-monopoly enforcement in the digital market. The Anti-Monopoly Enforcement Directorate 1 established the Digital Economy Enforcement Division, which is specifically responsible for handling monopoly agreements and cases regarding abuse of dominant market position in the digital market. The Anti-Monopoly Enforcement Directorate 2 established the Digital Economy Review Division, which is specifically responsible for concentration review of business operators in the digital market, enhancing the strength of the anti-monopoly regulation in the digital market.

- (ii) The State Administration for Market Regulation formed the Competition Policy and Big Data Center. It is mainly responsible for policy and theoretical research in the fields of anti-monopoly, competition policy and platform economy, as well as monitoring and early warning of online trading market and analyzing big data for market regulation. The formation of the Competition Policy and Big Data Center has strengthened the theoretical research capability and technical support for the regulation of the digital market.

IV. Anti-monopoly Priorities in 2022

- On March 17, 2022, the National Anti-monopoly Working (Video) Conference of the Market Regulation System was held, which proposed that five areas of work shall be focused on in 2022:
 - (i) Focusing on improving the rule of law level of anti-monopoly and focusing on improving the legal system of fair competition, to provide clearer guidance for market players.
 - (ii) Focusing on boosting market expectations and confidence, and focusing on the implementation of fair competition policies, to help smooth the domestic “internal circulation”.
 - (iii) Focusing on stabilizing the macro economy and safeguarding people's well-being and focusing on strengthening anti-monopoly regulation and enforcement in key areas, to transform the "soft power" of fair competition into "hard power" promoting development.
 - (iv) Focusing on promoting the construction of a modern regulatory system and focusing on enhancing the ability to govern fair competition, to develop the enforcement team.
 - (v) Focusing on shaping China's new competitive advantage, focusing on enhancing the compliance ability of enterprises, and actively participating in the study and development of international competition rules.

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- Five areas of anti-monopoly work shall be focused on in 2022:
 - Firstly, focusing on improving the rule of law level of anti-monopoly, and focusing on improving the legal system of fair competition, to provide clearer guidance for market players.
 - Secondly, focusing on boosting market expectations and confidence, and focusing on the implementation of fair competition policies, to help smooth the domestic “internal circulation”.
 - Thirdly, focusing on stabilizing the macro economy and safeguarding people's well-being, and focusing on strengthening anti-monopoly regulation and enforcement in key areas, to transform the "soft power" of fair competition into "hard power" promoting development.
 - Fourthly, focusing on promoting the construction of a modern regulatory system, and focusing on enhancing the ability to govern fair competition, to develop the enforcement team.
 - Fifthly, focusing on shaping China's new competitive advantage, focusing on enhancing the compliance ability of enterprises, to boost global influence in the field of competition rules.

Thank you!