Llinks Client Alert
Antitrust and Competition
November 2020

Shanghai · Beijing · Shenzhen · Hong Kong · London

LLINKS Law Offices
通力律师事务所

Llinks awards in antitrust and competition

- Law Firm of the Year (China) : Client Service by *Chambers and Partners* (2020)
- Excellent Law Firm in Enterprise Compliance and Excellent Comprehensive Law Firm of the Year (Shanghai) by *China Business Law Journal* (2020)
- Leading PRC Law Firm in Antitrust and Competition by *LEGALBAND* (2016-2020)
- Leading PRC Law Firm in Antitrust and Competition by *Legal 500* (2017- 2020)
- Top Ten Firms in China's Power List by *Asian Legal Business* (2015, 2016)
- Leading PRC Law firm in Competition by *IFLR1000* (2017-2019)
- Leading PRC Law Firm in Antitrust and Competition by *Chambers and Partners (*2009-2011)

I. Legislation

1. The State Administration for Market Regulation ("**SAMR**") issues the *Anti-monopoly Guidelines on Platform Economy (Draft for comments)*. The draft consists of six chapters with twenty-four articles and covers many cutting-edge issues regarding Internet platforms, including relevant market definition, algorithmic collusion, hub-and-spoke arrangements, big data discrimination, "pick one from two" and VIE related merger filings.

   Llinks Comments: Due to the network effect and scale effect of the platform, large Internet platform companies tend to form strong market power, which may harm market competition and consumer rights. The *Anti-monopoly Guidelines on Platform Economy (Draft for comments)* stresses on increasingly common issues on Internet platforms, such as big data discrimination, "pick one from two", personal information infringements, blocking competitor, rebates and subsidies, downgrade of search engine ranking, bundling products and services and other behaviors. We recommend large Internet platform companies to conduct a comprehensive inspection of various business models in the business ecosystem, and promptly correct non-compliant activities to avoid potential monopoly risks.

2. The State Council agrees to establish an inter-ministerial joint conference system against unfair competition. The joint conference is led by the SAMR and composed of 17 departments including the Cyberspace Administration, the Ministry of Education, the Ministry of Industry and Information Technology, and the Ministry of Public Security. It aims to strengthen macro guidance on anti-unfair competition work in accordance with relevant regulations of the *Anti-unfair Competition Law* and related documents.

3. The SAMR issues official interpretations to the *Antitrust Compliance Guidelines*, the *Antitrust Guidelines for the Automotive Sector*, the *Antitrust Guidelines for Intellectual Property Rights*, the *Antitrust Guidelines for*

Application of Leniency in Horizontal Monopoly Agreement Cases, and the *Antitrust Guidelines for Commitment Decisions in Monopoly Cases* previously formulated and promulgated by the Anti-Monopoly Commission of the State Council, from the perspectives of the drafting background, drafting process, main features and main contents, in order to strengthen business operators' understanding to these guidelines.

4. The SAMR issues the *Interim Regulations on Regulating Promotional Behaviors*, focusing on the hot phenomenon of "promotion", and further regulating business operators' promotion behaviors. For example, deceiving or misleading consumers with false information is prohibited; offers must be honored and giftaways must comply with relevant regulations; conditions or time limit must be specified for promotion activities; the maximum prize for lottery in promotion should not exceed RMB 50,000. In terms of legal liability, it strengthens convergence with other laws, such as the *Anti-Unfair Competition Law* and the *Price Law*.

II. Law Enforcement

1. The Public Resource Exchange Center of Guangxi Zhuang Autonomous Region circulates the *Notice on Urging Calcium Gluconate Injection-related Preparation Companies to Promptly Submit Price Adjustment Applications*, which requires 17 manufacturers to adjust pricing based on the reduced price of relevant active pharmaceutical ingredients (API) in a timely manner. Companies not rectifying in time will be formally summoned for questioning and documented in credit evaluation system by the healthcare security administration.

2. Zhejiang Provincial Administration for Market Regulation fined Zhejiang Pharmaceutical Sales Co., Ltd. of WEPON Pharmaceutical Group RMB 2.47 million for abusing its dominant market position. The company abused its dominance in China's API market of bromhexine hydrochloride, and tied unreasonable trading conditions to the *Agency Agreement,* which required drug manufacturers to hand over all bromhexine hydrochloride injection-related drugs to the company for sale.

Llinks Comments: China's anti-monopoly law enforcement authorities laid eyes on monopoly of API industry since around 2010, and imposed the first API related penalty in the case of "Compound Reserpine" in 2011. The anti-monopoly enforcement of APIs has intensified in recent years. The Anti-monopoly Bureau imposed a fine totaling RMB 300 million on three API distributors of Calcium Gluconate for abusing their dominant position this year. With the promulgation of the *Guidelines on Antitrust of API (Draft for comments),* regulation on the monopolistic conducts of API operators will further tighten. Simultaneously, regulatory authorities keep a close eye on the anti-competitive effects of monopolistic conducts on downstream preparations industry, and order related manufacturers to lower drug prices.

III. Foreign Trend

1. The U.S. Department of Justice (DOJ) filed an antitrust lawsuit to block Visa's $5.3 billion acquisition of fintech start-up Plaid. U.S. attorneys for the DOJ outlined potential concerns for the deal to extend a Visa "monopoly" on debit transactions, which would likely raise the price of debit services, eliminate innovation and raise barriers to entry in online debit business.

2. The UK Competition and Markets Authority (CMA) concluded that, the home insurance price comparison website ComparetheMarket breached competition law by imposing wide "most favored nation" clauses on providers of home insurance selling, and the total financial penalty for the infringements is £17,910,062. The company prohibited the home insurers from offering lower prices on other comparison websites and restricted competition between price comparison websites.

About Llinks's Antitrust Compliance Services

To meet clients' ever-growing needs in antitrust compliance, Llinks assembled a team consisting of experienced antitrust compliance experts. The antitrust compliance team is comprised of former general counsels and compliance heads of fortune 500 companies and other leading Chinese companies, former law enforcement officers as well as transaction and litigation lawyers specialized in antitrust compliance in relation to sectors under stringent antitrust compliance regulatory framework, such as drugs and health, automobiles and auto parts, energy and chemicals, and finance and insurance.

Llinks team is capable of utilizing its profound knowledge and experience in serving all kinds of antitrust compliance needs of clients, including monopoly agreements, compliance of companies with dominant position, and merger filings. Based on its deep understanding of antitrust laws and clients' industries, Llinks team is well capable of advising clients on antitrust issues, assisting clients to establish internal antitrust compliance system, providing highly efficient merger filing services, and assisting clients to respond to administrative dawn raids.

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