

China Competition Policy & IP

MONTHLY UPDATE

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Meetings/Seminars/Projects

SAMR Holds an Administrative Guidance Meeting for Sharing Economy

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On June 3, 2021, three departments of the State Administration for Market Regulation (SAMR) – the Price Supervision and Anti-Unfair Competition Bureau, the Anti-Monopoly Bureau, and the Network Supervision Department – jointly convened an administrative guidance meeting for companies engaged in the sharing economy. Operators of eight bicycle and portable charging brands – including Hellobike, Didi Bike, Meituan, Energy Monster, Xiaodian, Laidian, Jiedian, and Soudian – attended the meeting, where they were advised of the need to standardize prices and competition practices.

While affirming the positive effects of “shared consumption,” such as meeting consumers’ urgent needs and promoting the recovery of domestic consumption, regulators pointed out the prevalence of improper conduct in the industry, including opaque pricing rules and non-standard price labeling. Going forward, enterprises will need to enhance their compliance awareness and regulate their pricing and competition behaviors.

The meeting emphasized that companies in the sharing economy must follow the Anti-Monopoly Law and the Price Law, maintain market order, and establish a sound long-term mechanism for fair market competition. Companies were required to conduct self-inspection and submit rectification reports within 30 days of the meeting.

NDRC and SAMR Conduct On-Site Survey of Iron Ore Spot Market

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On June 21, 2021, the National Development and Reform Commission’s (NDRC’s) Department of Price and SAMR’s Price Supervision and Anti-Unfair Competition Bureau conducted an on-site survey in the iron ore spot market. During a visit to the Beijing Iron Ore Trade Center, the state planner and regulator surveyed the trading and price changes of iron ore this past year. They then announced that authorities plan to study how to stabilize the supply and prices of iron ore and other bulk commodities.

The authorities noted concerns that iron ore prices have risen sharply in recent months and continue to run at a high level, which has increased the pressure on the production and operation of downstream enterprises. The authorities expressed support for developing sound iron ore spot trading platforms, and encouraged relevant participants to trade in compliance with the law. Meanwhile, changes in spot trading prices will be closely monitored, and abnormal trading and malicious speculation will be promptly investigated. Behaviors such as reaching and implementing monopoly agreements, price gouging, and hoarding will be exposed and severely punished.

SAMR: Ensure Fair Competition for All Types of Market Players

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On June 1, 2021, the State Council Information Office held a routine policy briefing, where the topic of fair competition was addressed. Chen Zhijiang, Director of SAMR's Price Supervision and Anti-Unfair Competition Bureau, said that fair competition is key to small- and medium-sized enterprises and that, since the market economy is an economy of legality and competition, good market order and a sound competition ecosystem are the important foundation of economic development. Going forward, SAMR will ensure that all kinds of market players can compete fairly through the following three regulatory measures:

- 1. Strictly implement the fair competition review system.** SAMR will continue to improve competition policies and the competition assessment system; abolish policies and regulations that discriminate against or hinder various market players; and provide institutional safeguards to ensure fair competition for all market players, including individual entrepreneurs.
- 2. Promote in-depth anti-monopoly and anti-unfair competition enforcement.** SAMR will strictly prohibit unfair competition behaviors by enterprises with dominant positions, such as through seizing market shares and squeezing the living space of other market players. SAMR will crack down on platforms' either-or strategy, to maintain a fair market environment and stimulate the innovative vitality of market players. Additionally, SAMR will make unfair competition enforcement a common task for all departments by building a working pattern of joint management and creating a good environment for all market players to participate in fair competition.
- 3. Regulate the unfair pricing behavior of the platforms.** In recent years, the platform economy has grown rapidly, bringing convenience to consumers and operators. However, some platform enterprises have used the advantages in capital, data, and technology to expand in a disorderly manner, seriously damaging the legitimate rights and interests of small and medium-sized enterprises, micro-enterprises, and individual entrepreneurs, squeezing their operation and development space. Common improper pricing practices of

platforms continuously eat into the profit margins of these smaller enterprises and individual entrepreneurs.

First Anti-Unfair Competition Forum Held in Beijing

[Read the Chinese version here](#)

On June 10, 2021, SAMR held the first Anti-Unfair Competition Forum in Beijing, which focused on the theme of comprehensively strengthening anti-unfair competition and discussed hot issues such as unfair competition practices and brand protection in the digital economy. 200 representatives attended the forum, including members of the Inter-Ministerial Joint Conference Against Unfair Competition, judicial authorities, research institutions, universities, and enterprise industry associations.

Gan Lin, Deputy Director of SAMR, delivered the forum's keynote speech. She pointed out that the Party's Central Committee and the State Council attach great importance to anti-unfair competition matters, referencing President Xi's recent comments at the Central Financial and Economic Affairs Commission's ninth meeting, where he stressed the need to promote fair competition, oppose monopolies, and prevent the disorderly expansion of capital. Strategic plans to strengthen anti-monopoly and anti-unfair competition enforcement have also been included in the outline of the "14th Five-Year Plan." The Forum on Anti-Unfair Competition aims to improve government supervision, stimulate market vitality, and build social consensus.

Ms. Gan stressed that, though China has become the second-largest economy in the world, it still faces many issues related to anti-unfair competition – including a lack of awareness of fair competition, an imperfect legal system, and outdated regulatory concepts. SAMR will strive to make breakthroughs in strengthening the coordination of anti-unfair competition, enhancing supervision and enforcement in key areas, and building a new pattern of social governance to create a high-quality market environment and a high-standard market system.

The *Anti-Unfair Competition Law Enforcement Report of 2020* was released in conjunction with the forum, detailing and analyzing the top 10 anti-unfair competition cases since SAMR's establishment in 2018. According to statistics, in 2020 alone, market supervision authorities handled 7,371 cases of unfair competition, with imposed fines and confiscated goods totaling RMB 416 million.

Regulatory News

Private Tutoring Firms Fined by SAMR

[Read the Chinese version here](#)

On June 1, 2021, SAMR issued fines totaling RMB 36.5 million to 15 private tutoring firms engaged in false advertising and price fraud practices. The 15 companies fined included Yuanfudao, Zuoyebang, New Oriental Education, Xueersi, OneSmart International Education Group, Zhangmen, Wall Street English, Dada English, Beststudy Education, Weixue100, Mingshi Class, Scholar Education, Bond Education, BlueSky Education, and Nice Education.

The investigation into these off-campus education companies found several instances of false advertising – including exaggeration or fabrication of user reviews and information such as teacher qualifications or experience – as well as customization of contracts with overbearing clauses. The inspection found that all 15 institutions conducted false advertising and 13 of them also engaged in price fraud.

At a press conference, Chen Zhijiang, First-level Inspector of SAMR's Price Supervision and Anti-Unfair Competition Bureau, maintained that market regulators always uphold the principle of fairness in administrative enforcement. He shared three considerations that were considered when issuing the maximum fines on the tutoring firms:

1. The penalized tutoring firms are all national or regional institutions, whose illegal conduct harmed the legitimate interests of parents, students, and even society overall.
2. The education and tutoring industry matters to everyone's vital interests. With attributes related to public welfare and services, the industry needs to shift from a profit-seeking industry to an industry of conscience.
3. The maximum fine can both serve as a severe warning to the penalized entities, and warn education and tutoring institutions to operate with integrity and in accordance with the law.

"The top fine is not the most severe punishment. Fines are only the means, rectification and regulation are the purpose. Extra-curriculum tutor institutions should respond to the alarm and effectively implement the rectification, not to touch the red line of the law again," said Chen.

SAMR Issues Administrative Penalty Decision Against the Acquisition of Hangyin Consumer Finance by Yintai for Non-Filing

[Read the Chinese version here](#)

On June 3, 2021, SAMR issued an administrative penalty decision against China Yintai Holdings Co. Ltd. (Yintai) for failing to declare concentrations in the acquisition of Bank of Hangzhou Consumer Finance Co., Ltd. (Hangyin Consumer Finance).

Yintai, incorporated in Beijing in 1985, is principally engaged in investment, department store, and fashion retail; integrated commercial real estate development and operation; non-ferrous and rare metals; and cultural tourism. Hangyin Consumer Finance, incorporated in Zhejiang province in 2015, is mainly engaged in the business of consumer credit services. SAMR found that Yintai acquired a 34.92% equity interest in Hangyin Consumer Finance and obtained its common control in January 2019, but did not file to SAMR before Hangyin Consumer Finance completed the registration of the change of equity interest on August 7, 2019, constituting an undertakings concentration in violation of the Anti-Monopoly Law.

SAMR assessed the impact of this acquisition and concluded that this concentration of undertakings would not exclude or restrict market competition. Therefore, SAMR ordered Yintai to pay an administrative penalty of RMB 500,000.

Wuhai AMR Launches Anti-Monopoly Investigation into Meituan

[Read the Chinese version here](#)

In mid-June 2021, Wuhai Administration for Market Regulation (Wuhai AMR) – with authorization from the Inner Mongolia Autonomous Region Administration for Market Regulation – conducted an anti-monopoly investigation into on-demand delivery service provider Meituan’s agent and merchants in Wuhai.

The law enforcement officers questioned agent merchants on 20 different issues, such as when they joined Meituan, their business income, takeaway income shares, and gross profit and net profit rates. The related investigation of Meituan’s Wuhai agent, Xinyuan Network Technology Co., was conducted on 16 issues: the basic situations, content of cooperation with Meituan, mode of cooperation, charging situation for the platform merchants, and the charging standard, among others. Law enforcement officers promptly reported the results of their investigation to the Inner Mongolia Autonomous Region Administration for Market Regulation.

SAMR Approves Acquisition of Eaton Hydraulics by Danfoss with Remedies

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On June 6, 2021, SAMR announced its approval of Danfoss Power Systems's (Danfoss's) acquisition of Eaton Corporation's hydraulics business (Eaton Hydraulics) with restrictive conditions.

Danfoss is mainly engaged in the R&D, manufacturing, and sales of refrigeration, heating, and hydraulics products, and also provides related engineering solutions. Eaton Hydraulics is primarily engaged in the manufacturing and sales of hydraulic components and systems for industrial and mobile equipment. On January 21, 2020, Danfoss signed an agreement to acquire Eaton Hydraulics and obtain sole control.

After careful review and analysis of the acquisition, SAMR found that Danfoss and Eaton Hydraulics have a horizontal overlap in hydraulic products for mobile equipment – including hydraulic steering units, valves, motors, and pumps – and each company has up to 30% control of the Chinese orbital motor market. Since this concentration has, or may have, the effect of eliminating or restricting competition in that market, SAMR decided to approve the transaction with the following remedies:

- The divestment of Danfoss's cycloidal motor business, including all tangible and intangible assets (including intellectual property), agreements, leases, commitments and customer orders, and personnel.
- Other restrictive conditions in the commitments proposed by Danfoss to SAMR on May 25, 2021, which include avoiding conduct that may have negative implications on the value, management, or competitiveness of the divested business.

SAMR's approval follows clearance of the acquisition from the EU in March 2021.

Industry Updates

Huya Wins Lawsuit Against DouYu

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In June 2021, the Guangzhou Internet Court concluded the case *Guangzhou Huya Information Technology Co., Ltd. (Huya) v. Wuhan DouYu Network Technology Co., Ltd. (DouYu)* for infringement of e-sports copyrights and unfair competition disputes. Both the plaintiff, Huya, and the defendant, DouYu, are leading live stream gaming platforms in China.

According to the Guangdong Internet Court, DouYu made extensive use of Huya's copyrighted *ESL PRO LEAGUE* Season 11 event footage in its live broadcasts without Huya's authorization. The footage involved in the case consisted of continuous images with accompanying sound, and – given its similarities to works created through film production – such conduct could be held liable for copyright infringement. Despite Huya's repeated complaints, DouYu failed to take immediate and effective measures, such as deleting and blocking the infringing live stream rooms, which tacitly allowed and encouraged the infringing acts on its platform.

The court ordered DouYu to compensate Huya with RMB 1 million for its economic losses.

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