

China Competition Policy & IP

MONTHLY UPDATE

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Meetings/Seminars/Projects

Three Guangdong Regulatory Authorities Hold Administrative Guidance Meeting for Internet Platform Enterprises

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On April 30, 2021, the Guangdong Administration for Market Regulation (Guangdong AMR), together with the Guangdong Provincial Cyberspace Administration and the Guangdong Provincial Tax Service of the State Taxation Administration, held an administrative guidance meeting for internet platform enterprises to address violations such as either-or conduct, false advertising, and information leaks.

To rectify these types of violations, the authorities put forth eight requirements for platform companies, prohibiting them from:

- Interfering with the independent choice of merchants on platforms
- Implementing:
 - Monopoly agreements
 - Illegal concentrations of undertakings
 - Unfair pricing practices
 - Unfair competition conduct
- Publishing illegal advertisements
- Infringing on consumers' rights to know and opt out
- Illegally collecting and abusing personal information

The meeting emphasized that all internet platform companies must commit to rectification work, and they must follow the law to comprehensively regulate development. In line with the list of prohibitions set forth by the authorities, the platforms were required to submit a self-inspection report to Guangdong AMR before May 15, 2021.

Implementation of the Rule of Law in China Press Conference Held in Beijing

[Read the Chinese version here](#)

On May 9, 2021, a press conference on the “Implementation of the Rule of Law in China” annual report was held in Beijing. Leaders from the National People’s Congress, the Supreme People’s Procuratorate, the Ministry of Justice, and the China Law Society delivered speeches. More than 70 representatives from various law enforcement agencies, universities, and major media from across the country attended the press conference, and over 3,500 people participated online.

Dr. Huang Yong, a professor at the University of International Business and Economics and a member of the State Council’s Expert Advisory Group’s Anti-Monopoly Committee, delivered a speech during the press conference about the competition and implementation of the rule of law in the digital era. He highlighted that the rule of law for competition in the platform economy is a topical and difficult issue, and that the regulatory governance of the digital and platform economy in major antitrust jurisdictions worldwide is generally tightening. Dr. Huang added that it is worth considering how to refine existing regulations, as well as promote future development and achieve industry digitalization with scientific and rational rules.

Regulatory News

SAMR: Strengthening Law Enforcement Against Unfair Competition in Key Areas

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On May 10, 2021, the State Administration for Market Regulation (SAMR) released a notice, “Strengthening Anti-Unfair Competition Law Enforcement and Promoting High-Quality Development,” stipulating that regulatory authorities are required to carry out special enforcement actions – set forth by the National People’s Congress (NPC) Standing Committee – against unfair competition in these key areas.

The notice requires market regulators at all levels to establish a coordination mechanism for anti-unfair competition work based on local conditions, to accelerate the formulation and revision of supporting regulations and the implementation of anti-unfair competition laws, as well as to strive to improve the rule system. From April to December 2021, market regulators will be expected to step up their enforcement to align with SAMR’s nationwide special actions combatting unfair competition. The notice also requires regulators to explore effective ways to protect trade secrets and maintain the core competitiveness of enterprises in order to provide strong support for high-quality economic and social development.

Transportation Platforms Jointly Questioned by Eight Regulatory Agencies

[Read the Chinese version here](#)

On May 14, 2021, representatives from 10 of China’s largest transportation platform companies were jointly questioned by the Ministry of Transport and seven other members of the Inter-Ministry Joint Conference on Coordination and Supervision of New Transportation Business Forms. The transportation companies included Didi Chuxing, Shouqi Limousine & Chauffeur, CaoCao Chuxing, Meituan Chuxing, T3 Chuxing, Gaode, Dida Chuxing, Full Truck Alliance, Huolala, and Kuaigou Dache.

The questioning focused on ride-hailing platforms’ improper practices that may infringe on employees’ rights. Regulators pointed to several issues, such as excessive commission rates, unclear dispatch mechanisms, freight information monopolies, malicious undercutting of freight rates, and arbitrary membership fee hikes. To address such violations, authorities ordered the companies to form immediate and comprehensive rectification plans that address:

- Protecting drivers' rights to obtain information and supervision, disclosing commission rates to ensure clarity and transparency, and informing drivers of information such as the amount passengers are paying and the amount the drivers should expect to make
- Proactively reducing the percentage of commissions to protect drivers' labor remuneration
- Reasonably setting and proactively reducing the information service fees and membership fees
- Prohibiting collusion to manipulate market prices
- Prohibiting bidding on the price of return cargos

The authorities also proposed that – when formulating or adjusting business strategies related to the interests of the drivers, such as membership fees and pricing rules – platforms should fully communicate with drivers in advance. Additionally, regulators noted that the platforms should take measures to optimize dispatch mechanisms for limiting drivers' working hours to avoid excessive amounts of overtime and the resulting fatigue that can cause accidents.

Five Agencies Jointly Question Key Bulk Commodity Companies

[Read the Chinese version here](#)

On May 24, 2021, five departments – including the National Development and Reform Commission (NDRC), the Ministry of Industry and Information Technology, the State-owned Assets Supervision and Administration Commission (SASAC), the State Administration for Market Regulation (SAMR), and the China Securities Regulatory Commission – held a meeting to jointly question key bulk commodity companies with strong market influence in the iron ore, steel, copper, and aluminum industries. Bulk commodity companies are prohibited from hoarding and profiteering and are required to take the lead in maintaining the price order of the bulk commodity market.

As pointed out during the questioning, the current round of price increases in bulk commodities is due to international influences and also results from the excessive speculation that disrupts the normal production and sales cycle by increasing prices. To solve this problem, authorities introduced several requirements for the bulk commodity companies, including:

- Actively fulfilling their social responsibilities and promoting the coordinated development of the upstream and downstream supply chains to maintain a good industry ecology
- Strengthening legal awareness and compliance
- Taking the lead in maintaining the price order of the bulk commodity market
- Prohibiting collusion to manipulate market prices, fabricate information, or disseminate information on price increases
- Prohibiting hoarding and profiteering

In addition, relevant industry associations are required to properly perform the self-governing function, guide enterprises to strengthen self-discipline, and jointly maintain the normal market order of the industry.

Authorities have clearly stated that they will resolutely investigate and punish illegal activities in the bulk commodity industry, including reaching monopoly agreements, disseminating false information, price gouging, and hoarding and profiteering.

Zhejiang AMR Launches Antitrust Investigation into Bull Group

[Read the Chinese version here](#)

The Zhejiang Administration for Market Regulation (Zhejiang AMR) sent a letter to Bull Group Co., Ltd. (Bull) on May 13, 2021, stating that it had filed an antitrust investigation into Bull Group's alleged practices of reaching and implementing monopoly agreements.

Bull Group, a leading manufacturer in the electrical industry with products including extended line sockets, wall switches, LED lighting, and digital accessories, enlisted in the Shanghai stock market in February 2020. According to its prospectus, the company's sales of extended line sockets accounted for 66.39% of the domestic socket and related product sales on online retailer Tmall in 2018. In distribution contracts, Bull Group reached a clear agreement with each distributor to ensure that distribution areas did not overlap and competition among distributors was avoided.

Bull Group announced it would actively cooperate with the antitrust investigation.

Shihuituan Fined and Ordered to Suspend Operations, Rectify Unfair Pricing

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On May 27, 2021, SAMR imposed a maximum fine of RMB 1.5 million on Beijing Shihui Technology Co., Ltd. (Shihuituan), a leading community group-buying platform in China, for unfair pricing behavior. The company's Jiangsu branch was also required to suspend business for three days to rectify its practices.

It is the second penalty decision imposed on Shihuituan in recent months. In March, the platform was fined RMB 1.5 million as one of five community group-buying enterprises penalized for unfair pricing practices. After carefully re-analyzing relevant information such as commodity pages, financial data, and service agreements, SAMR found in May that Shihuituan was still engaging in unfair price competition practices, including selling goods below cost and using false discounts to

attract consumers. Authorities announced that such behaviors have disrupted market order, damaged consumers' interests, and violated pricing laws.

A meeting was held on the same day to admonish the relevant companies to carry out comprehensive self-examinations and operate in compliance with the law. For repeated violations, SAMR will continue to severely penalize them.

Industry Updates

Sina Weibo vs. ByteDance Unfair Competition Case Sentenced

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On May 17, 2021, the Beijing Haidian District Court (Haidian court) handed down its first-instance judgment in the four-year dispute between plaintiff Beijing Weimeng Chuangke Network Technology Co., Ltd. (Weimeng Company) and defendant Beijing ByteDance Technology Co., Ltd. (ByteDance). The plaintiff is the operator of Sina Weibo, a micro-blogging site and social media platform in China, and the defendant is the operator of Toutiao, a content discovery platform.

The plaintiff claimed that, since October 2016, ByteDance has captured and copied content originating from Sina Weibo on a large scale, either through technical means or manual ones, and then published and displayed this content on Toutiao to attract users. ByteDance argued that the Sina Weibo content producers, or users, should enjoy independent and complete rights with their content, including the option to license it for use by other platforms. ByteDance's content synchronization behavior has a rightful basis with the authorization letter from the content producers/users. However, the Haidian court held that – since Sina Weibo has invested operating resources and services into users' content before displaying it on its platform – in the absence of authorization from Sina Weibo, even with users' authorization, the relevant copying and publishing behavior constituted unfair competition.

According to the judgment, ByteDance's conduct both lacked legal authorization and unduly harmed Weimeng Company's legitimate rights and interests, disrupted the market order, and constituted unfair competition. Therefore, ByteDance is required to compensate Weimeng Company for economic losses of RMB 20 million and reasonable expenses of RMB 1.157 million, in accordance with the law.

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