

China Competition Policy, IP & Digital Economy

MONTHLY UPDATE

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Meetings/Seminars/Projects

Symposium on the Platform Economy Held in Beijing

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On July 12, 2023, Li Qiang, Premier of the State Council and a member of the Politburo Standing Committee, presided over a symposium with Chinese platform enterprises. Ding Xuexiang, Vice Premier of the State Council and a member of the Politburo Standing Committee, was in attendance. At the symposium, representatives from platform enterprises provided opinions on and suggestions for improving regulations for the platform economy while promoting its healthy, sustainable development.

Symposium attendees included leading platforms actively promoting new consumption of and employment in emerging industries, including consumer e-commerce, social media, short video, on-demand retail and delivery, hiring and recruitment, and industrial internet. During the symposium, representatives from platform enterprises such as Meituan, Xiaohongshu, Haizol, Huolala, Alibaba Cloud, and Douyin delivered speeches, and representatives from Pinduoduo, JD.com, BOSS Zhipin, Ouyeel, and COSMOPlat submitted written statements.

Mr. Li pointed out that the significance and role of the platform economy in the overall development of China's economy have become increasingly prominent. He emphasized that all levels of government should focus on creating a fair and competitive market environment, improving policies on investment access and security assessments for new technologies and businesses, and establishing transparent and predictable regulatory systems to reduce compliance operating costs for platform enterprises and promote the healthy development of the industry.

Chinese Authorities Summon Ride-Hailing Platforms to Address Unfair Tactics

[Read the Chinese version here](#)

On July 26, 2023, multiple Chinese ride-hailing services platforms were summoned to a meeting by the Office of the Inter-Ministerial Joint Meeting on the Coordinated Supervision of New Forms of Transportation. Companies such as DiDi, AutoNavi, Caocao, Shouqi, Meituan Taxi, and Baidu Taxi attended the meeting.

The meeting comprised a discussion of prominent issues in the industry, including arbitrary adjustments of operating rules, infringements upon the interests of employees and passengers, disturbances of the order of fair competition in the market, and hidden safety risks. To help address such issues, the transportation authorities listed the following six requirements for ride-hailing platforms:

1. Maintain fair market competition order.
2. Strictly implement corporate responsibilities.
3. Effectively protect the legitimate rights and interests of drivers.
4. Ensure the legitimate rights and interests of passengers.
5. Accelerate the regularization process of ride-hailing services.
6. Strengthen transportation safety management.

The platform companies in attendance all stated that they would conscientiously implement the requirements of this meeting. They pledged to organize investigations and rectifications, improve the compliance of the operation, protect the legitimate rights and interests of passengers and employees, and promote the healthy and sustainable development of the industry.

Regulatory News

SAMR Details Achievements of Delegated Reviews of Concentrations

[Read the Chinese version here](#)

On July 20, 2023, the State Administration for Market Regulation (SAMR) issued an article detailing the progress made in reviews of concentrations of business undertakings, which were delegated to local market regulators. In August 2022, SAMR initiated a pilot project delegating certain simplified merger case reviews to five local market regulators in Beijing, Shanghai, Guangdong, Chongqing, and Shaanxi. Over the past year, the local market regulators have reviewed 287 simplified merger cases, accounting for 40.7% of the total number of simplified cases filed in China during the same period.

Since August 2022, to provide clarity on review standards, SAMR has expedited the revision of the “Provisions of the State Council on the Standards for Declaration of Concentration of Business Operators,” which elevates the declaration threshold and optimizes the declaration standards. SAMR also revised the “Provisions on the Review of Concentration of Undertakings,” which details regulations for declaring, reviewing, and investigating concentration cases and improves enforcement procedures. Moreover, at the behest of SAMR, the pilot local market regulators have also opened a special section on concentration of operators on their official websites and organized a variety of training activities to further improve the review efficiency.

Through continuous optimization of mechanisms and personnel training, the local market regulators have significantly optimized review efficiency, with an average case acceptance time of 23.8 days and an average review and conclusion time of 18.5 days. The fastest time from acceptance to conclusion was completed within 11 days in Beijing and Shanghai.

Interim Measures for the Management of Generative AI Services Released

[Read the Chinese version here](#)

On July 10, 2023, the Cyberspace Administration of China – together with the National Development and Reform Commission, Ministry of Education, Ministry of Science and Technology, Ministry of Industry and Information Technology, Ministry of Public Security, and National Radio and Television Administration – jointly issued the “Interim Measures for the Management of Generative Artificial Intelligence Services.” The measures went into effect on August 15, 2023.

The measures dictate that providers of generative artificial intelligence (AI) services for generating text, pictures, and audio-visual content for the public must lawfully pre-train and fine-tune training data. According to the measures, providers must:

- Use data and basic models from legal sources;
- Ensure that activities do not infringe on others' lawful intellectual property rights in cases where intellectual property rights are involved;
- Obtain the individual's consent or comply with other circumstances as stipulated by laws and administrative regulations in cases involving personal information; and
- Take effective measures to improve the quality of training data and enhance its authenticity, accuracy, objectivity, and diversity.

The measures also require providers to take effective actions to prevent excessive reliance on, or addiction of underage users to, generative artificial intelligence services. Providers are required to identify generated content, such as images and videos, following the "Regulations on the Administration of Deep Synthesis of Internet Information Services." In addition, it is explicitly stated that providers must take appropriate measures in cases where illegal activities are detected, keep relevant records, and report the activities to the relevant authorities.

Industry Updates

Second-Instance Judgment in *Baidu v. 5iads* Search Engine Interference Case Delivered

[Read the Chinese version here](#)

On April 17, 2023, the Beijing Intellectual Property Court ruled in favor of Baidu in the unfair competition dispute between Beijing Baidu Netcom Science and Technology Co., Ltd. (Baidu) and Shenzhen Woai Network Technology Co., Ltd. (5iads), upholding the January 2022 first-instance judgment by the Beijing Haidian District Court. 5iads was ordered to compensate Baidu for economic losses and reasonable expenses of RMB 2.05 million.

Baidu is the operator of the Baidu search engine. In 2020, Baidu brought a lawsuit before the Beijing Haidian District Court, claiming that 5iads – the operator of the 5iads website – artificially interfered with the normal ranking of the Baidu search engine by creating false click data, which harms the interests of consumers and constitutes unfair competition. The Beijing Haidian District Court found that 5iads’ behavior constituted unfair competition, and ordered 5iads to publish an announcement to eliminate the impact and pay Baidu for economic losses of RMB 2 million as well as reasonable expenses of RMB 50,000. After hearing the case, the Beijing Intellectual Property Court noted that the large amount of false click data generated by the 5iads website damaged Baidu’s competitive advantage in the search engine network service industry. 5iads appealed, but the Beijing Intellectual Property Court upheld the first-instance judgment.

This case has attracted significant attention due to the rarity of unfair competition disputes involving platforms’ interference with search engine algorithms in China. The judgment in this matter has clarified the illegitimacy of generating artificially false data to disrupt the normal operation of other platforms. The court noted that such conduct not only harms the interests of competitors but also undermines the legitimate rights and interests of consumers, and is thus subject to severe punishment under the law.

MaxLinear Terminates Silicon Motion Acquisition After SAMR’s Clearance

[Read the Chinese version here](#)

[Read the announcement here](#)

On July 27, 2023, MaxLinear announced the termination of its planned acquisition of Silicon Motion Technology Corporation after having just received conditional approval from SAMR on July 26, 2023.

MaxLinear claimed that certain closing conditions outlined in the merger agreement were incapable of being satisfied and that Silicon Motion is experiencing a continuous Material Adverse Effect.

MaxLinear filed this concentration to SAMR on September 15, 2022. During the review, SAMR solicited opinions from relevant government departments, industry associations, competitors, and downstream customers, and held in-depth discussions with experts in economics, law, and the industry. SAMR also hired an independent third-party consultancy to conduct an economic analysis of the competition issues in the case.

According to SAMR's announcement, the relevant product market is defined as the third-party NAND flash memory controller market, the customer-level solid-state drive (SSD) market, and the enterprise-level SSD market. The relevant geographic market is defined as the global market, with a focus on competition within China. NAND flash controllers are the core components in downstream storage devices, the industry of which is technology- and capital-intensive.

SAMR noted that Silicon Motion holds a market share of approximately 50–55% in both the global and Chinese domestic third-party NAND flash memory controller markets, ranking first. The regulator also found that downstream customers are highly dependent on Silicon Motion's products, and the high market concentration has resulted in difficulties for potential competitors to enter or expand in the short term. SAMR concluded that this concentration may significantly exclude or restrict competition in the market for third-party NAND flash memory controller chips in China.

To address the competition concerns, SAMR decided to approve the merger with additional restrictive conditions, including but not limited to continuous supply to Chinese customers in adhering to the fair, reasonable, and non-discriminatory (FRAND) principle. SAMR also required the post-merger entity to retain Silicon Motion's field application engineers within China as part of the R&D resources to provide customer support. In addition, SAMR specifically prohibited the post-merger entity from adding malicious coding to the design of NAND flash memory controllers sold in China.

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