

Anti-Monopoly Guidelines for the Platform Economy Industries

Chapter I General Provisions

Article 1 Purpose and Legal Basis of the Guidelines

Anti-Monopoly Guidelines for the Platform Economy Industries (“Guidelines”) are formulated in accordance with the *Anti-Monopoly Law of the People’s Republic of China* (“AML”) and other laws in order to prevent and stop monopolistic behaviors in the platform economy industries, protect fair market competition, promote the well-regulated, orderly, innovative and healthy development of the platform economy industries and safeguard the interests of consumers and the public interests of society.

Article 2 Concepts

- (1) The platform, referred to in this Guidelines as the Internet platform, refers to a form of business organization that enables bilateral or multilateral parties across the platform to interact through network information technology under the rules provided by a specific carrier, thereby creating value together.
- (2) The platform operators refer to the business operators who provide natural persons, legal persons, and other market players with place of business, transaction facilitation, information exchange and other Internet platform services.
- (3) The business operators using the platform refer to the business operators selling goods or providing services (collectively “Goods”) through the platform. The platform operators may provide products directly through platform, while operating the platform.
- (4) The business operators operating in the area of platform economy industries include platform operators, business operators using the platform, and other parties involved in the platform economy industries.

Article 3 Basic Principles

Anti-monopoly enforcement agencies’ anti-monopoly regulation of the platform economy industries shall be based on the following principles:

- (1) Safeguarding fair market competition. Efforts will be made to adhere to treating market players on an equal footing without discrimination, prevent and stop monopolistic acts, complete laws and regulations defining monopoly of platform enterprise, protect fair competition in the platform economy industries, prevent the disorderly expansion of capital, support the innovative development of platform enterprise and strengthen international competitiveness.
- (2) Supervising lawfully, scientifically and high-effectively. The basic system, regulatory principles and analytical framework defined by the *AML* and relevant supporting regulations, rules and guidelines apply to all market players in the platform economy industries. Anti-monopoly enforcement agencies will strengthen competition analysis and legal argumentation, continuously strengthen

and improve anti-monopoly supervision, and enhance the pertinence and scientificity of anti-monopoly enforcement, combining the concrete circumstances of cases, in accordance with the status, laws and characteristics of the development of the platform economy industries.

- (3) Stimulating innovation and creativity. Maintaining a development environment of orderly competition, openness and inclusiveness, lowering market entry barriers, guiding and motivating platform operators to devote more resources to technological innovation, quality improvement, service enhancement and model innovation, preventing and stopping the exclusion and restriction of competing behavior from inhibiting the innovative development and economic vitality of the platform economy industries, effectively building the innovation and creative momentum of the whole society, and constructing new advantages and new driving force for economic and social development.
- (4) Safeguarding the legitimate interests of all parties. The development of the platform economy industries involves multiple parties. Anti-monopoly supervision, while protecting fair competition of platform economy industries and giving full play to the role of promoting the optimization of resource allocation, technological progress and efficiency enhancement, focuses on safeguarding the legitimate rights and interests of various parties such as operators, consumers and practitioners within the platform, strengthening the coordination of anti-monopoly enforcement and industry supervision in order for the whole society to share the platform's technological progress and economic development accomplishments, and achieve harmonious symbiosis and healthy development of the overall eco-system of the platform economy industries.

Article 4 Definition of the Relevant Market

The platform economy industries involve complex business models and changing competition dynamics. The definition of the relevant product market and relevant geographic market in the platform economy industries shall follow the general principles provided in the *AML* and *the Guidelines on the Definition of Relevant Markets*, and meanwhile, take the characteristics of the platform economy industries into account and conduct the analysis case by case.

(1) Relevant Product Market

The basic method of defining the relevant product market in the platform economy industries is substitutability analysis. When defining the relevant product market in individual cases, demand substitutability analysis can be based on factors such as platform functions, business models, application scenarios, user groups, multilateral markets, offline transactions, etc.; when supply substitution imposes similar competitive constraints on operator behavior as demand substitution, supply substitutability analysis can be considered based on factors such as market entry, technical barriers, network effects, lock-in effects, switching costs, cross-side competition, etc. Specifically, the relevant product market can be defined based on the products on the one side of the platform; multiple related markets can be defined

separately based on multiple products related to the platform, with the interrelation and influence each other between the relevant product markets being considered. When the cross-platform network effects of the platform can impose sufficient competition constraints on platform operators, the relevant product market can be defined based on the platform as a whole.

(2) Relevant Geographic Market

The relevant geographic market in the platform economy industries is defined based on the demand substitutability and supply substitutability analysis as well. When defining the relevant geographic market in a case, a comprehensive assessment can take into account the actual region where most users choose products, language preferences and consumption habits of users, relevant laws and regulations, the degree of competition constraints across different regions, online and offline integration, and other factors.

Depending on the characteristics of the platform, the relevant geographic market is usually defined as the China market or a specific regional market, and may also be defined as a global market on a case-by-case basis.

(3) Role of Market Definition in Various Types of Antitrust Cases

Adhering to the principle of case-by-case analysis, different types of antitrust cases have different practical needs for market definition.

Investigating cases of monopoly agreements, abuse of market dominance in the platform economy industries and conducting anti-monopoly review of concentration of undertakings usually require defining the relevant market.

Chapter II Monopoly Agreements

The *AML* prohibits operators from entering into and implementing monopoly agreements. The provisions of Chapter 2 of the *AML* and the *Interim Provisions on Prohibiting Monopoly Agreements* are applicable to the determination of monopoly agreements in the platform economy industries. Monopoly agreements explicitly stipulated in Articles 13 and 14 of the *AML* are prohibited in accordance with the laws; monopoly agreements meeting the conditions set forth in Article 15 of the *AML* can be exempted in accordance with the laws. When determining whether relevant conduct constitutes monopoly agreements in accordance with Article 13(6) and 14(3) of the *AML*, the competition situation in the platform's relevant markets, the market power of the platform operators and the business operators using the platform, the degree of impediment to other operators' entry into the relevant market and the impact on innovation can be considered.

Article 5 Forms of Monopoly Agreement

Monopoly agreements in the platform economy industries refer to agreements,

decisions or other concerted actions for the purpose of excluding or restricting competition. The agreement or decision may be in written or oral forms. Other collaborative conduct refers to the existence of collaborative conduct through data, algorithms, platform rules or other means despite the operators do not explicitly enter into an agreement or decision, except parallel behaviors such as price-following by relevant operators based on independent expression of intent.

Article 6 Horizontal Monopoly Agreement

Operators in the platform economy industries who have competing relations may enter into horizontal monopoly agreements, such as price fixing, market segmentation, restrictions on production (sales), restrictions on new technologies (products), joint boycotts, etc., by the following means:

- (1) The use of platforms to collect and exchange competitively sensitive information such as prices, sales volumes, costs, clients.
- (2) Use of technical means for communication.
- (3) Use of data, algorithms and platform rules to achieve coordinated behavior.
- (4) Other ways to help achieve collaboration.

The price referred to in this Draft Guidelines includes, but is not limited to, the price of goods and the commission, handling fee, membership fee, promotion fee and other service fees charged by the operators.

Article 7 Vertical Monopoly Agreement

Operators in the platform economy industries and their counterparties may enter into vertical monopoly agreements, such as resale prices fixing, minimum resale price limitation, etc., by the following means:

- (1) Automated prices setting by technical means.
- (2) Price alignment via platform rules.
- (3) Direct or indirect price restrictions using data and algorithms.
- (4) Restriction of other trade conditions by means of technology, platform rules, data, and algorithms for the purpose of excluding or restricting market competition.

The behavior of platform operators, which requires the business operators using the platform to provide them with trading conditions equal to or better than other competitive platforms in terms of prices, quantities, etc., may constitute monopoly agreement or abuse of market dominance. In analyzing whether the above behavior constitutes vertical monopoly agreements as stipulated in Article 14(3) of the *AML*, the platform operator's market power, the competitive situation in the relevant market, the degree of impediment to other operators' entry into the relevant market, and the impact on consumer interests and innovation, etc., can be generally taken into account.

Article 8 Hub-spoke Agreement

The business operators using the platform with competing relationships may leverage the vertical relationship with the platform operator, or the platform operator may organize and coordinate the competing operators to reach a hub-spoke agreement that has the effect of a horizontal monopoly agreement. When analyzing whether such agreements are monopoly agreements prohibited by Article 13 and 14 of the *AML*, one may consider whether the business operators using the platform with competing relationships have made use of technical means, platform rules, data and algorithms to conclude and implement monopoly agreements to exclude or restrict competition in the relevant markets.

Article 9 Determination of Concerted Practice

Concerted practice in the platform economy industries can be determined by direct evidence. If it is difficult to obtain direct evidence, the state of the operator's knowledge of the relevant information can be assessed on the basis of logically consistent circumstantial evidence in accordance with Article 6 of the *Interim Provisions on Prohibiting Monopoly Agreements* to determine the existence of concerted practice. The operator may rebut by providing opposite evidence.

Article 10 Leniency Program

Anti-monopoly enforcement agencies encourage operators who participate in horizontal monopoly agreements in the platform economy industries to voluntarily report horizontal monopoly agreements and provide important evidence, as well as to cease suspected illegal conduct and cooperate in investigations. The anti-monopoly enforcement agency may reduce or waive penalties for operators who meet the conditions for leniency. The specific standards and procedures for operators to apply for leniency shall be governed by the *Interim Provisions on Prohibiting Monopoly Agreements* and the *Guidelines of the Anti-Monopoly Committee of the State Council to the Application of the Leniency System to Horizontal Monopoly Agreement Cases*.

Chapter III Abuse of Market Dominant Position

The *AML* prohibits business operators with a dominant market position from engaging in abusive practices. Chapter 3 of the *AML* and the *Interim Provisions on Prohibiting Monopoly Agreements* are applicable to the determination of abuse of market dominance in the platform economy industries. Usually, the first step is to define the relevant market, analyze whether the operator has a dominant position in the relevant market, and then analyze, on a case-by-case basis, whether it constitutes an abuse of market dominant position.

Article 11 Determination of Market Dominant Position

The anti-monopoly enforcement agency finds or presumes the operators having a market dominant position in accordance with Articles 18 and 19 of the *AML*. In combination with the characteristics of the platform economy industries, the

following factors may be specifically considered:

- (1) Market share of the operator and the competitive situation in the relevant market.
To determine the market share of the operator in the platform economy industries, consideration may be given to the value and number of transactions, sales value, the number of active users, the number of clicks, the duration of use or other indicators in the relevant market, as well as the duration of that market share.
To analyze the competitive situation in the relevant market, the development of the relevant platform market, the number and market share of existing competitors, the characteristics of platform competition, the degree of platform differentiation, economies of scale, the situation of potential competitors, innovation and technological change may be considered.
- (2) The operator's ability to control the market. Consideration may be given to the operator's ability to control the upstream and downstream markets or other related markets, its ability to hinder or influence other operators from entering the relevant market, the relevant platform's business model, network effects, and its ability to influence or determine prices, traffic flow or other trading conditions.
- (3) The financial and technical conditions of the operator. Consideration may be given to the operator's investors, asset size, source of capital, profitability, financing capacity, technological innovation and application capacity, intellectual property rights, ability to grasp and process relevant data, as well as the extent to which the financial resources and technical conditions can facilitate the operator's business expansion or the consolidation and maintenance of its market position.
- (4) The degree of dependence of other operators on the operator for the transaction. Consideration may be given to the other operator's trading relationship with the operator, the volume of transactions, the duration of transactions, the lock-in effect, user stickiness, as well as the likelihood of other operators switching to other platforms and switching costs.
- (5) The degree of difficulty for other operators to enter the relevant market. Consideration can be given to market entry, platform scale effect, scale of capital investment, technical barriers, user multiplicity, user switching costs, the ease of data acquisition, user habits, etc.
- (6) Other factors. Consideration may be given to other factors that identify the operator as having a dominant market position based on the economic characteristics of the platform.

Article 12 Unfair Pricing Behaviors

An operator in the platform economy industries with a dominant market position may abuse its dominant market position by selling goods at an unfairly high price or purchasing goods at an unfairly low price. The analysis of whether it constitutes unfairly pricing behaviors may take into account the following factors:

- (1) Whether the price is significantly higher or significantly lower than the price of the same or comparable goods under the same or similar market conditions of

operators of the same category.

- (2) Whether the price is significantly higher or significantly lower than the price of the same or comparable goods in other same or similar market conditions.
- (3) Whether the operators in the platform economy industries have increased their selling prices or reduced their purchasing prices beyond the normal range when costs are essentially stable.
- (4) Whether the price increase of the goods sold by the operator in the platform economy industries is significantly higher than the cost increase, or whether the price reduction of the purchased goods is significantly lower than the cost reduction.

In determining whether the market conditions are the same or similar, factors such as the type of platform, business model, trading process, cost structure, and specific circumstances of the transaction may generally be considered.

Article 13 Selling below Cost

An operator in the platform economy industries with a dominant market position may abuse its market dominance by selling goods at a price below cost without justification, thereby excluding or restricting competition in the market.

The analysis of whether a sale below cost is justifiable generally focuses on whether the operator in the platform economy industries has excluded other operators with competition relationships at prices below cost, and whether, after excluding other operators from the market, it may raise prices, make unjustified profits and damage the fair competition of markets and legitimate rights and interests of consumers.

In calculating the costs, it is generally necessary to consider the cost linkages between the relevant markets in the multilateral market to which the platform relates.

The below-cost sales' operators in the platform economy industries may be justified for the following reasons:

- (1) To develop other business within the platform within a reasonable period of time.
- (2) To facilitate the entry of new commodities into the market within a reasonable period of time.
- (3) To attract new users within a reasonable period of time.
- (4) To carry out promotional activities within a reasonable period of time.
- (5) Other grounds that would justify the conduct.

Article 14 Refusing to Deal

An operator in the platform economy industries with a dominant market position may abuse its dominant market position by refusing to engage in transactions with counterparties without justifiable reasons, excluding or restricting market competition. The following factors may be considered in determining whether a refusal to deal

occurs:

- (1) Stopping, delaying, or interrupting an existing transaction with a counterparty.
- (2) Refusing to enter into new transactions with counterparties.
- (3) Reducing the number of existing transactions with counterparties substantially.
- (4) Placing unreasonable restrictions and barriers in platform rules, algorithms, technology, traffic distribution, etc., to make it difficult for counterparties to conduct transactions.
- (5) Refusing to deal with the counterparty on reasonable terms by the operator that controls the essential facility of the platform economy industries.

In determining whether the relevant platform constitutes an essential facility, it is generally necessary to consider factors such as the situation of the platform in possession of data, the substitutability of other platforms, the existence of potentially available platforms, the feasibility of developing competitive platforms, the degree of reliance of the counterparty on the platform, and the possible impact of the open platform on the platform operator.

Refusal to deal by operators in the platform economy industries may be justified on the following grounds:

- (1) The impossibility of carrying out transactions for objective reasons such as force majeure.
- (2) Impact on the security of the transaction caused by the counterparty.
- (3) Transactions that would unduly diminish the interests of the operator in the platform economy industries.
- (4) Explicitly declared or actual non-compliance by the counterparty with fair, reasonable and non-discriminatory platform rules.
- (5) Other grounds that would justify the conduct.

Article 15 Restrictive Dealings

An operator in the platform economy industries with a dominant market position may abuse its market dominance and engage in restricted transactions with counterparties without justifiable reasons to exclude or restrict market competition. The following factors may be taken into account in the assessment of the restricted transactions:

- (1) Requiring the operators using the platform to engage in a “pick one in two” or other conduct restricting the counterparty to an exclusive transaction with it.
- (2) Restricting the counterparty to the transaction to deal only with its designated operator or through restricted methods such as designated channels.
- (3) Restricting the counterparty from engaging in transactions with specific operators.

The above limitation may be achieved through a written agreement, through a telephone call or oral agreement with the counterparty, or through the actual setting of restrictions or obstacles in platform rules, data, algorithms or technologies.

To assess whether the restriction of transaction occurs, the following two situations can be considered: First, the restrictions implemented by platform operators through punitive measures such as blocking stores, search downgrades, traffic restrictions, technical barriers, and withholding of deposits can generally be identified as constituting a restricted transaction due to the direct damage to market competition and consumer interests. Secondly, restrictions implemented by platform operators through subsidies, discounts, preferences, traffic flow resources support and other incentive schemes may have certain positive effects on platform operators, consumer interests and the overall social welfare, but may also be deemed to constitute restricted trading behavior if there is evidence to prove that they have obvious exclusion and restriction effects on market competition.

Restricted transactions by operators in the platform economy industries may be justified for the following reasons:

- (1) Necessary to protect the interests of counterparties and consumers.
- (2) Necessary to protect intellectual property, trade secrets or data security.
- (3) Necessary to protect specific resource inputs to the transaction.
- (4) Necessary to maintain the sound business model.
- (5) Other grounds that would justify the conduct.

Article 16 Tying or Imposing Unreasonable Trading Conditions

An operator with a market dominant position in the platform economy industries may abuse its market dominance by engaging in tying or imposing trading conditions without justifiable reasons to exclude or restrict market competition. The following factors may be considered in analyzing whether tying or imposing unreasonable trading conditions occurs:

- (1) bundling different goods by means of formal terms and conditions, pop-up windows, mandatory operating steps, etc., which cannot be selected, changed or rejected by the counterparties to the transaction.
- (2) Compelling the counterparty to a transaction to accept other goods through punitive measures such as search downgrades, traffic restrictions, technical barriers, etc.
- (3) Imposing unreasonable restrictions on the terms and manner of transactions, the way services are provided, the manner and means of payment, post-sale guarantees, etc.
- (4) Charging unreasonable fees in addition to the transaction price.
- (5) Collecting of user's non-essential information compulsorily or adding transaction conditions, transaction processes and service items unrelated to the subject matter of the transaction.

Tying by operators in the platform economy industries may be justified for the

following reasons:

- (1) Consistent with proper industry practice and trade customs.
- (2) Be necessary to protect the interests of transaction counterparties and consumers.
- (3) Be necessary to enhance the value or efficiency of the use of the product.
- (4) Other grounds that would justify the conduct.

Article 17 Applying Discriminatory Treatments

An operator in the platform economy industries with a dominant market position may abuse its market dominance without justification by applying discriminatory treatment to counterparties with equal standing to exclude or restrict market competition. The following factors may be considered in assessing whether differential treatment occurs:

- (1) Differential transaction prices or other trading conditions based on big data and algorithms, according to the counterparties' ability to pay, consumption preferences, usage habits, etc.
- (2) Application of differentiated standards, rules, and algorithms.
- (3) Application of differentiated payment conditions and transaction methods.

Equal standing means that there are no substantial differences between the counterparties in terms of transaction security, transaction costs, credit status, transaction links, transaction duration, etc. that materially affect the transaction. Differences in the privacy information, transaction history, individual preferences, consumption habits and other aspects of the transaction counterparts obtained by the platform in the transaction do not affect the determination that the conditions of the transaction counterparties are the same.

There may be justifiable reasons for operators in the platform economy industries to carry out discriminatory treatment as follows:

- (1) Introducing different trading conditions based on the actual needs of the counterparty and in accordance with legitimate trading customs and industry practices.
- (2) Preferential activities for new users within a reasonable period of time.
- (3) Random transactions based on fair, reasonable and non-discriminatory rules of the platform.
- (4) Other grounds that would justify the conduct.

Chapter IV Concentration of Business Operators

The *AML* prohibits operators from implementing concentrations that have or may have the effect of excluding or restricting competition. Anti-monopoly enforcement agencies of the State Council, in accordance with the *AML*, the *State Council's*

Regulations on the Criteria for Pre-merger Notification and the Interim Provisions on the Examination of Concentrations Between Undertakings, review transaction proposed by operators in the platform economies industry and investigate the transactions that have been illegally implemented.

Article 18 Threshold of Declaration

In the platform economy industries, operator's turnover includes its income by selling products and providing services. Turnover may be calculated depending on the trading customs, charging methods, business models and the role of platform operators, etc.. For platform operators who only provide information matching and receive service charge such as commissions, turnover may be calculated according to the service fees charged by the platform and other revenues generated by the platform; for platform operators who specifically participate in competition or play leading roles on one side market of the platform, the transaction amounts involved in the platform can also be calculated.

If the concentrations of business operators meet the declaration thresholds set by the State Council, the operators shall make a prior declaration to the anti-monopoly enforcement agency of the State Council, and no concentrations shall be executed without a clearance. Transactions of operators involved in VIE structure falls within the scope of the concentration review regime.

Article 19 Ex officio Investigations

According to Article 4 of the State Council's Regulations on the Criteria for Pre-concentration Notification, if a concentration does not meet the notification criteria, but the facts and evidence collected in accordance with the prescribed procedures indicate that the concentration has or may have the effect of excluding or restricting competition, the anti-monopoly enforcement agency of the State Council shall conduct an investigation in accordance with the laws.

Operators may take the initiative to notify the anti-monopoly enforcement agency of the State Council of the proposed concentration that do not meet the notification criteria.

The anti-monopoly enforcement agency of the State Council highly concerns about the concentration of business operators in the platform economy industries, of which the participating party of the concentration is a start-up or an emerging platform, the turnover of a participating party of the concentration is relatively low due to the free or low-price model, the concentration in the relevant market is high and the number of competitors is relatively small, etc. For those that does not meet the notification criteria but have or may have the effect of excluding or restricting competition, the anti-monopoly enforcement agency of the State Council shall conduct an investigation and deal with them in accordance with the laws.

Article 20 Consideration Factors

The anti-monopoly enforcement agency of the State Council will assess the competitive effects of the concentrations in the platform economy sector based on the related provisions set out in Article 27 of the *AML* and Chapter 3 of the *Interim Provisions on the Examination of Concentrations Between Undertakings*. In combination with the characteristics of the platform economy industries, the following factors may be considered:

- (1) Market share of the operator in the relevant market. In addition to turnover as an indicator for calculating market share, the operator may also consider using the amount and number of transactions, the number of active users, the number of clicks, the duration of use or other indicators of the proportion of the relevant market, and may make a comprehensive assessment of the market share over a longer period of time to determine its dynamic trend.
- (2) The operator's control over the market. Consideration may be given to whether the operator has exclusive rights to key and scarce resources and the duration of such exclusive rights, the viscosity and multi-habitability of platform users, the operator's ability to collect and process data, its control over data interfaces, its ability to penetrate or expand into other markets, the operator's profitability and profit margin level, the frequency and speed of technological innovation, the life cycle of goods, and the existence or likelihood of disruptive innovation.
- (3) Concentration in the relevant market. Consideration may be given to the development status of the relevant platform market, the number of existing competitors and market share.
- (4) The impact of operator concentration on market entry. Consideration can be given to the market entry situation, the difficulty for operators to obtain necessary resources and essential facilities such as technology, intellectual property rights, data, channels, users, etc., the scale of capital investment required to enter the relevant market, the switching costs for users in terms of fees, data migration, negotiation, learning, search, etc., and the possibility, timeliness and adequacy of entry.
- (5) The impact of the proposed transaction on technology progression. Considerations can be given to the innovation competition in technology and business models, the impact on innovation incentives and capabilities, and whether acquisitions of startups and emerging platforms will affect innovation.
- (6) The impact on consumers. Consideration may be given to whether the post-merger operator has the ability and incentive to harm consumers by raising the price of goods, reducing the quality and diversity of goods, impairing the ability and scope of consumer choice, discriminatory treatment of consumers, and inappropriate use of consumer data.
- (7) Other factors affecting market competition that the anti-monopoly enforcement agency believes shall be considered, including the impact on other operators and the impact on the development of the national economy.

For concentrations involving bilateral or multilateral platforms, it may be necessary to consider the platform's bilateral or multilateral operations and other operations undertaken by the operators together and to assess direct and indirect network externalities.

Article 21 Remedies

For concentrations that have or may have the effect of excluding or restricting competition, the anti-monopoly enforcement agency of the State Council shall make a decision in accordance with Article 28 of the *AML*. For concentrations that are not banned, the anti-monopoly enforcement agency of the State Council may impose the following restrictive conditions:

- (1) structural conditions such as divestiture of tangible and intangible assets such as intellectual property, technology and data or divestiture of relevant interests.
- (2) Behavioral conditions such as opening up infrastructures such as networks, data or platforms, licensing key technologies, terminating exclusivity agreements, modifying platform rules or algorithms, committing to be compatible or not to reduce the level of interoperability, etc.
- (3) A combination of structural and behavioral conditions.

Chapter V Abuse of Administrative Power to Eliminate or Restrict Competition

The *AML* prohibits administrative organs and organizations authorized by laws and regulations to manage public affairs from abusing their administrative power to eliminate or restrict competition. As for the abuse of administrative power to eliminate or restrict competition in the platform economy industries, the anti-monopoly enforcement agency investigates those conduct in accordance with laws and makes recommendations.

Article 22 Performance of Abuse of Administrative Power to Eliminate or Restrict Competition

The following acts by administrative organs and organizations with functions in the management of public affairs authorized by laws and regulations to exclude or restrict market competition in the platform economy industries may constitute an abuse of administrative power to exclude or restrict competition:

- (1) Directly or indirectly restricting an entity or individual's operation, purchase, or use of the goods provided by the designated operators in the platform economy industries.
- (2) Setting discriminatory standards and implementing discriminatory policies for operators of non-local platforms, adopting administrative licensing or filing of records specifically for operators of non-local platforms, or setting up shields through software or the Internet to hinder or restrict the entry of operators of non-local platforms into the local market and impede the free circulation of goods

between regions.

- (3) Excluding or restricting the participation of operators of non-local platforms in the economy in local bidding and purchasing activities by setting discriminatory qualification requirements, criteria of evaluation of bid and review or failing to publish information in accordance with the law.
- (4) Discriminatory treatment of non-local operators in the platform economy industries by excluding, restricting or compelling non-local operators to invest or set up branches in the local area.
- (5) Compulsory or disguised compulsion for operators in the platform economy industries to engage in monopolistic conduct as provided for in the *AML*.
- (6) Regulations, normative documents and other policy documents and specific policy measures in the case-based form in the form of regulations, measures, decisions, announcements, notices, opinions, minutes of meetings, etc., formulated or issued by administrative organs that contain content that excludes or restricts competition in relation to market entry, industrial development, investment promotion, bidding and tendering, government procurement, business conduct code, qualification criteria and other economic activities of market participants in the platform economy industries.

Article 23 Fair Competition Review

Administrative organs and organizations authorized by laws and regulations to manage public affairs to formulate regulations, normative documents, other policy documents and specific policy measures in the case-based form involving the economic activities of market participants in the economic field of the platform shall conduct fair competition reviews in accordance with the relevant provisions issued by the state.

Chapter VI By-laws

Article 24 Interpretation of Guideline

This Guideline shall be interpreted by the State Council Anti-Monopoly Committee and will be implemented from the date of promulgation.