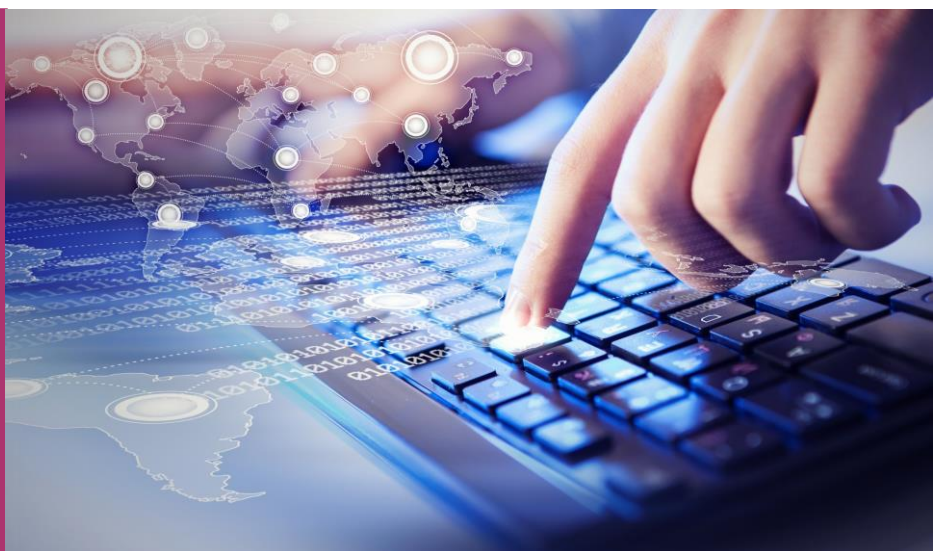


China Competition Newsletter

May 2021



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【Regulations】

Tianjin AMR Penalizes Three Enterprises over Monopoly Agreements

The State Administration for Market Regulation ("SAMR") issued a decision of administrative penalty on April 30, 2021 against Tianjin Tianyao Pharmaceuticals Co., Ltd. ("Tianjin Tianyao") and two other companies for having reached and implemented monopoly agreements. The case was initiated by the Tianjin Administration for Market Regulation ("Tianjin AMR") in September 2020, and the decision was made in April 2021.

An investigation revealed that, from 2008 to 2014 and from May 2017 to September 2020, Tianjin Tianyao had reached and implemented agreements with competing companies including Tianjin Pacific Chemical & Pharmaceutical Co., Ltd. and Shenzhen Fuhaitong Pharmaceutical Co., Ltd. whereby the sales market of Fluocinolone Acetonide API is divided and the price of Fluocinolone Acetonide API is changed and fixed. This conduct restricted and eliminated market competition in the sales market of Fluocinolone Acetonide API and went against Article 13 (1) and (3) of the Anti-

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Monopoly Law ("AML").

In accordance with Article 29 of the Administrative Penalty Law, the conduct that Tianjin Tianyao had reached and implemented a monopoly agreement from 2008 to 2014 shall be exempted from administrative penalty since the conduct had not been found during two years after the conduct.

In the meantime, during the investigation, the Parties cooperated with the Tianjin AMR proactively by providing relevant supporting materials. Moreover, the Parties ceased their illegal conducts by lowering the price of Fluocinolone Acetonide API and taking proactive measures to eliminate anti-competition effects of their conducts after realizing the illegality of their conducts.

Accordingly, the Tianjin AMR decided to confiscate illegal gains of the Parties and imposed a fine amounting to 2% to 4% of the Parties' 2019 sales revenue respectively.

Source: SAMR Website

Please refer to the decision for details at:

http://www.samr.gov.cn/fldj/tzgg/xzcf/202104/t20210430_328493.html

SAMR Penalizes Eight Companies for

Failure to File Merger Notification in Establishment of Joint Venture

The SAMR issued four decisions of administrative penalty on April 30, 2021 against eight companies for failure to file a merger notification in their establishments of joint ventures.

Taking the establishment of a joint venture by Linzi Tencent Technology Co., Ltd (“**Linzi Tencent**”) and Dalian Wanda Commercial Management Group Co., Ltd. (“**Dalian Wanda**”) as an example, Linzi Tencent, Dalian Wanda and Shenzhen Golden Computer Technology Co., Ltd. (“**Shenzhen Golden**”) entered into an agreement on June 8, 2018, to establish a joint venture which mainly provides software services in the area of online retail. Post-transaction, Dalian Wanda, Linzi Tencent and Shenzhen Golden hold 51%, 42.48% and 6.52% of the joint venture respectively and the joint venture will be jointly controlled by Linzi Tencent and Dalian Wanda. As such, the transaction is a concentration of undertakings provided in the AML. An assessment finds that the transaction reaches the notification threshold and the SAMR shall be notified.

The joint venture completed its business registration on June 8, 2018 without notifying the SAMR. This

conduct constitutes an illegal concentration of undertakings, violating Article 21 of the AML. An assessment finds that this concentration does not cause any elimination or restriction of market competition. As such, the SAMR decided to impose a fine of RMB 500,000 yuan on Linzi Tencent and Dalian Wanda respectively.

In addition to the above case, the four cases also include the establishment of a joint venture by Cheering Venture Global Limited and Toyota Motor Corporation, the establishment of a joint venture by Didi Smart Transportation Technology Co., Ltd. and Jinan Inspur Zhitou IT Co., Ltd., the establishment of a joint venture by Hongyun Jiukang Data (Beijing) Co., Ltd. and Shanghai Yunxin Venture Capital Management Co., Ltd. In accordance with the AML, the SAMR decided impose a fine to RMB 500,000 yuan to the six companies respectively.

Source: SAMR Website

Please refer to the decisions for details at:

http://www.samr.gov.cn/fldj/tzgg/xzcf/202104/t20210430_328423.html

http://www.samr.gov.cn/fldj/tzgg/xzcf/202104/t20210430_328421.html

http://www.samr.gov.cn/fldj/tzgg/xzcf/202104/t20210430_328421.html

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http://www.samr.gov.cn/fldj/tzgg/xzcf/202104/t20210430_328417.html

SAMR Penalizes Five Companies for Failure to File Merger Notification in Share Acquisition

The SAMR issued five decisions of administrative penalty on April 30, 2021 against five companies for failure to file a merger notification in their share acquisitions.

Taking Suning Rundong Equity Investment Management Co., Ltd. ("Suning Rundong")'s acquisition of Shanghai Yiguo E-commerce Co., Ltd. ("Shanghai Yiguo")'s shares as an example, Suning Rundong, in the name of its subsidiary, Nanjing Henghao Enterprise Management Consulting Partnership (limited partnership), enters into a capital increase agreement with Shanghai Yiguo and Zhangye, Shanghai Yiguo's former shareholder, to gain 15.21% shares in Shanghai Yiguo by capital increase and acquire the control of Shanghai Yiguo. As such, the transaction constitutes a concentration of undertakings, and SAMR shall be notified of it since it has reached the notification threshold.

Shanghai Yiguo changed its shareholder registration on December 5,

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2016 without notifying SAMR. This conduct constitutes an illegal concentration of undertakings, violating Article 21 of the AML. An assessment finds that the transaction will not restrict or eliminate competition. As such, the SAMR decided to impose a fine of RMB 500,000 on Suning Rundong.

In addition to the above case, the five cases also include the share acquisition of Bitauto Holdings Limited by Tencent Holdings Limited, the share acquisition of Shanghai Lantu IT Co., Ltd. by Tencent Holdings Limited, the share acquisition of Shanghai Linkedcare IT Co., Ltd. by Shanghai Hantao Information Consulting Co., Ltd. and the share acquisition of Yestock Automobile Service Co., Ltd. by Cheering Venture Global Limited. In accordance with the AML, The SAMR decided to impose a fine of RMB 500,000 yuan to the Parties respectively.

Source: SAMR Website
Please refer to the decisions for details at:
http://www.samr.gov.cn/fldj/tzgg/xzcf/202104/t20210430_328422.html
http://www.samr.gov.cn/fldj/tzgg/xzcf/202104/t20210430_328420.html
http://www.samr.gov.cn/fldj/tzgg/xzcf/202104/t20210430_328418.html

http://www.samr.gov.cn/fldj/tzgg/xzcf/202104/t20210430_328416.html

http://www.samr.gov.cn/fldj/tzgg/xzcf/202104/t20210430_328415.html

SAMR Unconditionally Approves Forty-eight Concentrations of Undertakings from April to May

SAMR unconditionally approved 48 concentrations of undertakings from April 19, 2021 to May 23, 2021, mainly involving industries in the material, automobile markets, among others.

Source: SAMR Website

http://www.samr.gov.cn/fldj/ajgs/wtjjzajgs/202104/t20210427_328311.html

http://www.samr.gov.cn/fldj/ajgs/wtjjzajgs/202105/t20210511_329362.html

http://www.samr.gov.cn/fldj/ajgs/wtjjzajgs/202105/t20210518_329668.html

http://www.samr.gov.cn/fldj/ajgs/wtjjzajgs/202105/t20210525_329840.html

【AnJie News】

AnJie Honored by China Business Law Journal

On May 18, China Business Law Journal, a well-known legal media, released the list of the 2021 China Business Law Awards. Anjie Law Firm, by virtue of excellent performance and reputation, was honored the Law Firm of the Year in the practice area of competition and antitrust.

Antitrust and Anti-Unfair Competition is the core practice area of AnJie. Consist of eight partners and more than 20 experienced lawyers, AnJie Antitrust and Anti-Unfair Competition team is one of China's premier team.

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Team members are all graduated from well-known law schools domestically and from abroad, and most lawyers have many years of experience working in top law firms. In addition, many of AnJie partners are arbitrators of the China International Economic and Trade Arbitration Commission and have many years of litigation experience.

AnJie Partners Zhan Hao and Song Ying Pen China Chapter of *GLI: Cartels 2021*

AnJie Partners Zhan Hao and Song Ying were once again invited to write the China chapter for *Global Legal Insights: Cartels 2021* which was published

recently.

As antitrust and competition lawyers recommended by well-known rating agencies such as Chambers & Partners, Who's Who Legal, the Legal 500, Partners Zhan Hao and Song Ying, based on their professionalism and rich case experience, shared their insights on the main regulatory framework, legal system and cases related to typical monopoly agreements from 2020 to 2021, analyzed Chinese latest administrative law enforcement policies, administrative investigation process, compliance standards, and further prospects for future legal and practical development.

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