



June 30<sup>th</sup>, 2023

## Chinese antitrust.

### Review #20 (2023)

#### QUOTES

[In the development of artificial intelligence] we must not only "push on the gas", but also be able to "push the brake." AI technologies must be easy to use, reliable and trustworthy. Their evolution and development must comply with social norms, and in the pursuit of technological renewal, one should not forget about social responsibility.

Alibaba CEO Zhang Yong at the World Internet Conference <sup>1</sup>

#### EVENTS

- **Updated Regulations on Prohibition of Misuse of Intellectual Rights to the Detriment of Competition**
- **People's Daily on Artificial Intelligence**
- **Draft Antitrust Guidelines on Patents Essential to Standards (SEP) and Antitrust Compliance Guidelines for Hainan Public Utilities**
- **Online Juvenile Protection Campaign**
- **China Mobile Establishes Industry Alliance for Metaverse Affairs**
- **ASIFMA Guidelines for the Development of Chinese Capital Markets**
- **Party guidelines for the development of the digital economy**
- **Baidu: Ernie Bot Beats ChatGPT**
- **Alibaba Cloud and Fudan University Launch Computing Platform**
- **SAMR cancels order on Marubeni-Gavilon deal**
- **China and Vietnam sign MoU on market regulation**

---

<sup>1</sup> Source: <https://baijiahao.baidu.com/s?id=1769782522667945791&wfr=spider&for=pc>

## Updated Regulations on Prohibition of Misuse of Intellectual Rights to the Detriment of Competition

SAMR has published updated Prohibition of Misuse of Intellectual Property Rights that may eliminate or restrict competition, the new version will come into force on August 1<sup>st</sup>, 2023. The following changes have been made to the text:

- The concept of abuse of intellectual property rights against competition has been expanded to include such violations as anti-competitive agreements, abuse of dominance and economic concentration that can eliminate or restrict competition;
- The factors for identifying anti-competitive practices have been clarified;
- The regulation of typical and special infringements specific to the field of intellectual property rights has been strengthened.

The previous edition (from 2015) contained 19 articles. Of these, one was completely preserved, 18 were modified, and 14 new ones were added.

### Sources:

[https://www.samr.gov.cn/xw/zj/art/2023/art\\_40a491351ced42b4a814bcf87bb4cb6b.html](https://www.samr.gov.cn/xw/zj/art/2023/art_40a491351ced42b4a814bcf87bb4cb6b.html)

[https://www.samr.gov.cn/zw/zfxgk/fdzdgnr/xwxc/s/art/2023/art\\_31a6c007fb564cb6a76fe768d928f70b.html](https://www.samr.gov.cn/zw/zfxgk/fdzdgnr/xwxc/s/art/2023/art_31a6c007fb564cb6a76fe768d928f70b.html)

## People's Daily on Artificial Intelligence

China's main state media, the People's Daily, published two editorials about artificial intelligence. The first talks about progress in the development of general purpose AI: although it is not yet able to "realize" the meaning of its actions, this technology is already widely used in office and household affairs, and is also used in specialized large models in such fields as pharmaceuticals, remote sensing, meteorology, etc. At the same time, it is noted that it is necessary to exercise forethought when developing a regulatory framework: general-purpose AI is able to process such volumes of data that it carries risks associated with intellectual property, personal secrets, data fabrication, and so on. Authorities and businesses should work together to identify risks, develop applicable standards and rules.

The second article talks about the World Internet Conference held in QiuFu: one of the most important topics of discussion was the creation of a safe and trustworthy artificial intelligence. According to the deputy head of the Arms Control and Disarmament Department of the Chinese Foreign Ministry, the Chinese government attaches great importance to the regulation of AI security, in particular, it intensifies the study of relevant legislation, moral principles and related social issues. According to GSMA CEO John Hoffman, AI can only change the world for the better if it is bound by the norms of an ethical code, and it is necessary to guarantee the reliability, responsibility and fairness of these technologies in relation to each person.

### Sources:

[http://paper.people.com.cn/rmrb/html/2023-06/26/nw.D110000renmrb\\_20230626\\_3-05.htm](http://paper.people.com.cn/rmrb/html/2023-06/26/nw.D110000renmrb_20230626_3-05.htm)

[http://paper.people.com.cn/rmrb/html/2023-06/27/nw.D110000renmrb\\_20230627\\_4-06.htm](http://paper.people.com.cn/rmrb/html/2023-06/27/nw.D110000renmrb_20230627_4-06.htm)

## Draft Antitrust Guidelines on Patents Essential to Standards (SEP) and Antitrust Compliance Guidelines for Hainan Public Utilities

The Draft Antitrust Guidelines on Standards Essential Patents (SEP) are designed to prevent abuse that would eliminate or restrict competition in the marketplace. The content of the document relates to SEP-related anti-competitive agreements, abuses of

dominance and economic concentration transactions. The collection of opinions will last until July 29<sup>th</sup>.

In parallel, the Antitrust Compliance Guide for Hainan Public Utilities is also presented for public consultation. It provides guidance and recommendations on compliance management for utility providers (water, electricity and gas, telecommunications, public transport, funeral services), but notes that any other types of companies can also be guided by them.

**Sources:**

[https://www.samr.gov.cn/hd/zjdc/art/2023/art\\_6422b2fb728f486b9814349213ea07c6.html](https://www.samr.gov.cn/hd/zjdc/art/2023/art_6422b2fb728f486b9814349213ea07c6.html)

[https://www.samr.gov.cn/fldys/sjdt/dfdt/art/2023/art\\_19ecdb24d46c428c861b3ca86a521bc3.html](https://www.samr.gov.cn/fldys/sjdt/dfdt/art/2023/art_19ecdb24d46c428c861b3ca86a521bc3.html)

## Online Juvenile Protection Campaign

The administration of the CPC Central Committee Committee on Cyber Security and Informatization has launched a campaign to "regularize" the Internet environment for minors during the summer vacation. The regulator will focus on seven problematic phenomena:

- 1) disguised distribution of malicious content;
- 2) cyberbullying;
- 3) coercion to virtual indecent acts;
- 4) cyber fraud; 5) inappropriate content;
- 6) Internet addiction;
- 7) risks associated with new technologies.

**Source:** [https://www.thepaper.cn/newsDetail\\_forward\\_23662571](https://www.thepaper.cn/newsDetail_forward_23662571)

## China Mobile Establishes Industry Alliance for Metaverse Affairs

China Mobile, the state-owned telecommunications company, has established a metaverse industry alliance with 24 companies including AI corporation iFlytek, VR glasses maker HTC and video streaming platform MGTV as first members. Zhao Dachun, deputy general manager of China Mobile, said the alliance was established to discuss the metaverse development plan with industry partners, promote the development of applicable standards, share resources, and develop the concept of win-win.

**Source:** <https://www.chinadaily.com.cn/a/202306/29/WS649cf016a310bf8a75d6c506.html>

## ASIFMA Guidelines for the Development of Chinese Capital Markets

The Asian Securities Industry and Financial Markets Association (ASIFMA) published a report on Chinese capital markets, offering its recommendations for their further development and openness. Offers include but are not limited to:

- Ensure better interaction between Chinese and international markets, which now operate under different standards and rules;
- Ensure efficient cross-border data exchange (the current requirements are too vague - they need to be reviewed and explained how they should be applied);
- Provide clarifications regarding ambiguous rules and procedures, including

trading protocols in the stock markets, requirements for the degree of protection of personal data, etc.

- Introduction of dual licenses (valid in several states).

**Source:** <https://www.asifma.org/wp-content/uploads/2023/06/chinas-capital-markets-market-in-transition.pdf>

## **Party guidelines for the development of the digital economy**

SAMR head Luo Wen, who is also party secretary of the department, gave a lecture to the party staff on "Strengthening Promotion of the Regulated and Healthy Development of China's Platform Economy Under the Guidance of Xi Jinping's Ideas of Socialism with Chinese Characteristics in the New Era." He stressed that "normalizing" (transforming from an exceptional measure into a norm) the regulation of the platform economy is an important task set by the CPC Central Committee for SAMR. In this regard, it is necessary to be guided by the ideas and statements of Xi Jinping in order to accurately understand the shortcomings and gaps in this area and improve the level of regulation.

**Source:** [https://www.samr.gov.cn/xw/zj/art/2023/art\\_affbdb57bcf74a5f99af92d56bde9e35.html](https://www.samr.gov.cn/xw/zj/art/2023/art_affbdb57bcf74a5f99af92d56bde9e35.html)

## **Baidu: Ernie Bot Beats ChatGPT**

Baidu, the operator of China's largest search service, said that the new version of its ERNIE chat bot surpasses ChatGPT (3.5) in cognitive abilities and GPT-4 in Chinese language skills. Just three months after the launch of the beta testing of Ernie Bot, this large language model has demonstrated outstanding results in efficiency, functionality, and output results. This is especially noticeable in features such as literary creation, answering questions, logical reasoning, and code generation.

**Source:** <http://research.baidu.com/Blog/index-view?id=185>

## **Alibaba Cloud and Fudan University Launch Computing Platform**

The Computing for the Future at Fudan (CFFF) platform was launched by Alibaba Cloud in cooperation with Fudan University, and the corporation continues to actively strengthen cooperation with authorities and government agencies. The purpose of the new platform is to train large AI models for research purposes. As Wang Jian, the founder of Alibaba Cloud, said, university professors can afford to use cloud computing, but this is not available to many students: everyone can realize their scientific ideas using the new platform. Fudan University plans to use the platform to create models in life sciences, materials science and integrated circuits.

**Source:**

<https://www.scmp.com/tech/big-tech/article/3225619/alibabas-cloud-services-subsiary-and-shanghais-fudan-university-establish-new-intelligent>

## **SAMR cancels order on Marubeni-Gavilon deal**

In 2013, the Chinese Ministry of Commerce approved the acquisition of 100% of the shares of Gavilon Holdings by Marubeni with an order. According to the order, the parties to the transaction were required to carry out separate and independent operations for the import and sale of soybeans in China and not to exchange relevant market information. In October 2022, Marubeni asked SAMR to terminate the order due to the sale of Gavilon's grain business to Viterra. Based on the results of the audit, the agency concluded that

Marubeni and Viterra are not affiliated, which means that there were significant changes in the original terms of the transaction and the enforcement of the conditions of the prescription is no longer required, since the adverse impact on competition has been eliminated, and therefore the prescription was terminated.

**Source:**

[https://www.samr.gov.cn/fldys/tzgg/ftj/art/2023/art\\_c2e0519cccbe4d63a9c203cb60a8c6b2.html](https://www.samr.gov.cn/fldys/tzgg/ftj/art/2023/art_c2e0519cccbe4d63a9c203cb60a8c6b2.html)

## **China and Vietnam sign MoU on market regulation**

At a meeting between Chinese Premier Li Qiang and Vietnamese Prime Minister Pham Minh Chin, the head of SAMR and the Minister of Industry and Trade of Vietnam signed a memorandum of understanding. The parties agreed to establish a mechanism for communication and cooperation on market regulation issues, cooperate in such areas as the enforcement of intellectual property law, consumer protection and food safety supervision, and jointly promote and protect fair competition.

**Source:**

[https://www.samr.gov.cn/xw/zj/art/2023/art\\_6d6a00aa05a341eb9243c02d3fb80946.html](https://www.samr.gov.cn/xw/zj/art/2023/art_6d6a00aa05a341eb9243c02d3fb80946.html)