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Chinese antitrust.

Review #35 (2022)

QUOTES

A report jointly prepared with PwC showed that while the majority of US companies remained profitable, the current anti-epidemic measures negatively affect business confidence and lead to a reduction in investment. The recovery from the initial lockdown in 2020 has been hampered by this year's [new] lockdowns, and — given worsening Sino-US relations and macroeconomic pressures — members of the [American Chamber of Commerce in Shanghai] are reporting an all-time low level of optimism about revenues and the business environment.

Source: AmCham Shanghai¹

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¹ Source: <https://www.amcham-shanghai.org/en/article/amcham-shanghai-releases-2022-china-business-report>

Report to the 20th Congress of the CPC: what was said about the fight against monopolies

On October 16th, 2022, in the forecast for the 20th Congress of the Communist Party of China, the main event in the country's political life that took place every five years, General Secretary Xi Jinping said: "Strengthen anti-monopoly [measures] and counteraction with unfair competition; fight against protectionism and administrative monopoly; regulate and regulate the healthy development of growth in accordance with the letter of the law." Almost ten years ago, one of the plenums of the 18th Congress already put forward the demand "to counteract monopolies and unfair competition," and in 2018, at the 19th Congress, it was announced "to crush administrative monopoly, to suppress and suppress monopoly in the market." However, the most ambitious campaign to counter the unmanageable growth of players in the market began at the end of 2020, when a meeting of the Central Committee of the CPC and the Politburo announced the demand to "strengthen anti-monopoly [measures] and prevent disorderly growth of capital." Immediately after that, an antitrust investigation against Alibaba was launched, involving a record \$2.8 billion fine for China.

Sources:

<https://baijiahao.baidu.com/s?id=1747041600938981455&wfr=spider&for=pc>

https://www.samr.gov.cn/fldys/sjdt/gzdt/202211/t20221108_351428.html

White Paper on Community with Shared Future in Cyberspace Published

The white paper titled "Jointly Build a Community with a Shared Future in Cyberspace." describes the theory and practice of the development of the Internet in China, the principles of cyberspace governance, and the needs and prospects for international cooperation in this field. According to the concept of a "community with a shared future", humanity bears a common responsibility for the development of the Internet and must jointly eliminate the corresponding risks, jointly solve emerging problems. It is noted that China has achieved outstanding results in stimulating the digital economy, "cleansing" the online environment and protecting security in cyberspace.

Full text in English is available here: <https://www.chinadaily.com.cn/a/202211/07/WS63687246a3105ca1f2274748.html>

Source:

<https://russian.news.cn/20221107/9577cd5da3e7418b8d16019933a28df3/c.html>

Strict regulation of digital platforms will continue

At a press conference of the Cyberspace Administration of China, journalists asked the representatives of the agency: "Has China completed the regulation and elimination of violations in the activities of Internet platforms? Will there be any further action?" According to Wang Song, head of information development, "To encourage and support the healthy, regulated and sustainable development of digital platforms is an important responsibility of our Administration. We provide ongoing oversight and control of digital companies, as required by law, and - if adverse events occur - we will conduct targeted campaigns to eliminate them. He also noted that the Cyberspace Administration adheres to the strategy of equal importance of both development and regulation and regulation, both political instructions and measures dictated by law, both public and economic interests, which creates a favorable environment for the development and operation of platforms. The SCMP calls this approach a "carrot and stick" whereby the authorities intensify and apply penalties to the fullest extent, but always remember that the ultimate goal of regulation is long-term development.

Sources:

https://m.gmw.cn/2022-11/08/content_36146202.htm

<https://www.scmp.com/tech/article/3198750/china-continue-its-carrot-and-stick-approach-big-tech-regulation-cyber-watchdog-says>

RFA: China will take control of private companies through the creation of a joint venture

China's market regulator, without additional conditions, agreed on an economic concentration deal to create a joint venture between China Telecom (a state-owned company) and Tencent. The joint venture will focus on smart city technologies, digital governance, big data and communications. In parallel, another state-owned telecom giant China Mobile and the JD.com marketplace have agreed on strategic cooperation. According to Radio Free Asia, the move is indicative of the Chinese Communist Party's desire to gain greater control over technology and telecommunications companies through public-private partnerships. According to experts interviewed by Radio Free Asia, joint ventures are necessary to provide the state with access to manage the flow of information and materials, and in the future, individual private companies may even disappear.

Source: <https://www.rfa.org/english/news/china/ventures-11042022140146.html>

China's first fair competition education week

From November 14th to 18th, the National Antimonopoly Bureau of China will hold China's first fair competition education week. It will also include the 9th International Forum on Fair Competition and a video meeting of the BRICS Coordinating Council on Antimonopoly Policy. The agency has specially launched a website that publishes information about all the planned events, of which there are more than a hundred: www.samr.gov.cn/zt/jzz. The week will be devoted to the topic "The Greater Single Market. Fair competition of the future.

Source: https://www.samr.gov.cn/xw/zj/202211/t20221107_351404.html

New requirements for blog advertising

SAMR, together with six other agencies, has published guidelines for advertising with media personalities. It is noted that when participating in advertising, famous personalities often disseminate false information, and individual companies for which traffic is a priority hire unreliable bloggers, stars, etc. for advertising activities. control the activities of all parties: the stars who act as the face of the product or service, the business that places the advertisement, and the media where it is published. In particular, media persons are prohibited from posting content that undermines national dignity, promote pornography, gambling and superstition, encourage unreasonable consumption and mercantile mores. A ban is also imposed on their participation in the advertising of tobacco products (including electronic cigarettes), out-of-school education, medical and pharmaceutical products. Advertisements also should not exaggerate the properties of the product or involve data that cannot be verified.

Source: https://www.samr.gov.cn/ggjgs/tzgg/202210/t20221031_351169.html

Successes of antimonopoly regulation in 10 years

Wu Zhenguo, head of SAMR's 1st Antitrust Enforcement Division, reported on the performance of antitrust work over the past 10 years since Xi Jinping took over as CPC General Secretary and President of the People's Republic of China in 2012. 277 cases of anti-competitive agreements and abuse of dominant position were considered (the amount

of penalties was ≈\$5 billion), 345 cases of abuse of administrative powers to the detriment of competition, 3822 applications for economic concentration transactions (2 blocked, 42 approved with additional conditions). Major market disruption cases include Qualcomm, TetraPak, Yangtze River Pharmaceutical Group, and three manufacturers of injectable calcium gluconate APIs. According to Wu Zhenguo, these ten years have been a period of outstanding antitrust enforcement work, active application of competition policy, and spreading a culture of competition among the general public. In the future, the department will work to improve the legal system, strengthen and update anti-monopoly measures and improve their effectiveness, eliminate high-profile problems, implement the principle of "regulation for the people", and continuously enhance China's authority in the international anti-monopoly "arena" of anti-monopoly policy.

Source: https://www.samr.gov.cn/fldys/sjdt/gzdt/202211/t20221107_351416.html

Ideological lectures on the ideas of the XX Congress for big tech

The Cyberspace Administration held thematic lectures at Huawei and Kuaishou. The lectures were devoted to studying the key instructions of Xi Jinping and the tasks set at the 20th Congress of the Communist Party of China: to win the "struggle" for key technologies, to strengthen technological sovereignty, to consolidate China's status as a "cyber power" and a "digital" state.

At Huawei, the agency emphasized the importance of implementing the Chinese model of technology-assisted modernization: it is necessary to accelerate breakthroughs in key technologies, stimulate innovation, and promote the digitalization of all industries. Separately, the significant role of enterprises in the creation of technological innovations was noted.

Kuaishou mentioned the need to promote socialism with Chinese characteristics, use innovation to spread the important agenda, better broadcast information to the international arena, and improve Internet governance systems.

A little later, at the World Internet Conference in Wuzhen, the top management of Alibaba and JD.com expressed their desire to contribute to the goal, also set at the 20th Congress, to integrate the digital economy with the real one. "JD.com started as a real company and is returning to the real economy," said Xu Lei, CEO of the marketplace. — We are a real company of a new type: with a real economy in the DNA, but with digital capabilities. We are well aware of the needs and pain points of the real economy <...> and will play an important role in the new development paradigm."

Sources:

http://www.cac.gov.cn/2022-11/06/c_1669395623274979.htm

<https://baijiahao.baidu.com/s?id=1748584469512395046&wfr=spider&for=pc>

<https://www.scmp.com/tech/big-tech/article/3199034/top-executives-alibaba-and-jd-pledge-support-integration-digital-and-real-economies-world-internet>

CAC on harassment of Chinese companies

At a press conference by the Cyberspace Administration (CAC), Qi Xiaoxia, head of the international cooperation department, noted that Huawei and some other Chinese companies abroad are subject to restrictions. The reason for it is called the malicious pressure of individual countries on China under the auspices of protecting national security. "The international community is in dire need of unity, not division. Being in the same boat, we should help each other, and not push the other overboard <...> By provoking segmentation and confrontation, one can only harm oneself. Win-win cooperation is the only way."

An extreme example of this attitude is the termination of cooperation with Huawei by the German city of Duisburg: the parties had previously agreed to create a "smart city", but recently the memorandum expired, and the municipal authorities said they would not renew it at the moment due to "relations between Russia and China."

Sources:

<https://baijiahao.baidu.com/s?id=1748809119427845346&wfr=spider&for=pc>

<https://www.scmp.com/news/china/diplomacy/article/3199049/germanys-china-city-duisburg-cuts-ties-huawei-citing-beijings-relations-russia>

China stopped publishing statistics on mobile applications

For the past three months, when publishing statistics, the Ministry of Industry and Informatization omits data on mobile applications: the latest information is dated July of this year. Segment statistics began to be included in the reports of the Ministry since August 2017 and since then have never disappeared from open data. It is not known if total application data for 2022 will be released. Recently, the largest mobile application operators have faced reduced consumption and a slowing economy in the face of strict anti-epidemic measures and tightened regulation. There are now 2.32 million mobile apps available in China, up from 4.49 million at the end of 2018, many removed due to non-compliance with applicable laws, including requirements for the processing of personal data.

Source: <https://www.scmp.com/tech/big-tech/article/3198318/china-stops-publishing-data-metrics-vast-domestic-apps-market-amid-declining-internet-service>

Bloomberg: US auditors complete first round of audits in Hong Kong

Representatives of the US Public Company Accounting Oversight Board (PCAOB) have completed the first round of audits of Chinese companies' audit data and are preparing to leave Hong Kong ahead of schedule - inspections were scheduled to end only in mid-November. The Council will then issue a preliminary report that will identify shortcomings or items that need to be corrected. Thus, regulators have yet to determine whether Chinese companies, including Alibaba, NetEase and JD.com, are expected to be delisted from US exchanges. As noted in a Bloomberg report, the Chinese side demanded that names, addresses and salary levels be glossed over in corporate documents. The US will examine whether the presence of Chinese representatives affected auditors' access to required and unchanged information.

Source: <https://www.bloomberg.com/news/articles/2022-11-04/us-audit-inspectors-finish-on-site-china-work-ahead-of-schedule>

Chinese employees have access to TikTok data

Elaine Fox, TikTok's director of privacy for Europe, said the company "allows individual employees in corporate groups in Brazil, Canada, China, Israel, Japan, Malaysia, the Philippines, Singapore, South Korea and the United States to access data remotely. European TikTok Users. At the same time, the data itself is stored on servers in Singapore and the United States. Fox points out that access is secured through methods recognized by the General Data Protection Regulation (GDPR) and rigorous security controls and approvals are applied in the process. The data will be used for various tests, including the effectiveness of recommender algorithms.

The public is concerned about the security of the personal data of TikTok users and, in particular, the potential for the Chinese government to access personal data.

Source: <https://www.theguardian.com/technology/2022/nov/02/tiktok-tells-european-users-its-staff-in-china-get-access-to-their-data>

NDRC expresses support for American business

The State Committee for Development and Reform held a round table with top management of more than 60 US companies with offices in China. The authorities noted that China will persevere in the course of further opening up. The Committee expressed its hope that companies will continue to invest in China and integrate into the country's new development architecture, support the high-quality development process, thereby ensuring the security and stability of global production and supply chains, and contribute to the recovery of the world economy. The round table was attended by leading US companies from the fields of pharmaceuticals, energy, finance, automotive, etc., which have been present on the Chinese market for many years and have a wide audience of consumers. Representatives noted that the meeting helped them better understand the guidelines of the 20th Congress on the further economic development of China and increased confidence in future investment plans.

However, a report released recently by the American Chamber of Commerce in Shanghai (AmCham Shanghai) shows that only 18% of companies surveyed consider China the #1 investment destination (compared to 27% last year). In addition, the share of companies that are optimistic or rather optimistic about the five-year development plan in China has dropped to 55%, the lowest level in the history of the survey conducted since 2012.

Sources:

https://m.thepaper.cn/baijiahao_20548061

<https://www.amcham-shanghai.org/en/article/amcham-shanghai-releases-2022-china-business-report>

Guidelines for combating cyberbullying

The document is designed to protect Internet users from insults, slander and infringement of their personal secrets. Online platforms are required to create mechanisms to detect (create reference databases) and prevent aggressive content, develop recognition models (based on the subject, number of participants, content, post frequency, etc.), implement easily accessible "buttons" for managing private messages, and contacting technical support. It is necessary to strengthen the control of comments under news, posts and topics, filter illegal entries, and also intensively check live broadcasts and short videos in order to block broadcasts with numerous incidents of cyberbullying in a timely manner. An explanatory conversation is held with violators, depending on the circumstances, blocking, disabling functions, or even a ban on registering new accounts across the Internet may be applied. Platforms that do not do well in the responsibility for cyberbullying control are also subject to punitive measures, including a reprimand, a requirement to eliminate the violation within a specified time frame, a fine, suspension of content updates, removal of the site, etc.

Source: <https://mp.weixin.qq.com/s/a0Q1i1ACDkGldY27e-pblg>

