



**3rd September,  
2021**

## **Chinese Antitrust.**

Review N°29

### **QUOTES**

China adheres to the course of external openness, and the doors to China will only swing wider. While in the rest of the world, the volume of foreign investment fell by 40%, being one of the top destinations for foreign investors last year, China, despite the general trend, increased the volume of direct investment by 4.5%. The volume of foreign capital in China increased by 28.7% over the previous year. Foreign investors maintain a positive attitude towards the Chinese market.

Wang Wenbin, Speaker of the PRC Foreign Ministry<sup>1</sup>

### **EVENTS**

- **Xi Jinping Calls For Stronger Antitrust Regulation**
- **SAMR proposed amendments to the Law on Electronic Commerce**
- **State-owned enterprises of Tianjin will switch to the "state cloud"**
- **International cooperation – SAMR**
- **Meituan commented on the active investigation**
- **Zhejiang Province Launches Online Food Delivery Service**
- **"Purge" of commercial and independent financial media**
- **Expedited review of innovative patents**
- **Sharing services successfully eliminate violations**
- **Penalty of China Aviation Fuel branch**
- **Tencent terminates exclusive music contracts**
- **Regulators interviewed transport platforms**
- **Alibaba will contribute to the achievement of "Shared Prosperity"**
- **Case on the protection of personal data**

---

<sup>1</sup> Source: <https://baijiahao.baidu.com/s?id=1709794853705248025&wfr=spider&for=pc> (China Radio International Online)

## **Xi Jinping Calls For Stronger Antitrust Regulation**

On August 30th, at a meeting of the Central Committee Committee on the Comprehensive Deepening of Reforms, chaired by Xi Jinping, "Views on Strengthening Antitrust Measures and In-depth Promotion of Fair Competition Policy" were adopted.

Xi Jinping stressed that such a course is an internal necessity to improve the socialist market economy. According to him, a new development structure should be created to promote high-quality development and active realization of the general welfare, to promote the formation of a market environment characterized by fair competition, to create a vast space for the development of all market entities, especially small and medium-sized enterprises, to more effectively protect the rights and interests, consumers. The importance of simultaneous planning of development and safety, efficiency and fairness, activity and order, internal and external [course] was also noted; the need to understand the importance of regulation and regulation and the promotion of development.

Source: [http://www.xinhuanet.com/politics/2021-08/30/c\\_1127810407.htm](http://www.xinhuanet.com/politics/2021-08/30/c_1127810407.htm)

## **SAMR proposed amendments to the Law on Electronic Commerce**

In Art., 43 time limit for platform operator for complaint notification or the copyright holder's claim is extended to 20 business days. Also added position:

If the provider of goods or services on the platform issues a guarantee that provides compensation for the damage that entails a potential infringement of intellectual property rights, the e-commerce platform operator may temporarily stop the action being taken.

If the supplier of goods or services submits a false claim that there is no wrongdoing, which increases the damage to the copyright holder, he is twice liable for compensation.

To Art. 84 on penalties for the failure of the platform operator to take the necessary measures in the event that the provider of goods and services on the platform has violated other people's intellectual property rights, it is added that in the presence of especially aggravating circumstances, the competent authority may restrict the operator from conducting business activities on the network up to the revocation of the license to maintain such activities.

Sources: [http://www.samr.gov.cn/hd/zjdc/202108/t20210831\\_334252.html](http://www.samr.gov.cn/hd/zjdc/202108/t20210831_334252.html)

## **State-owned enterprises of Tianjin will switch to the "state cloud"**

The city of Tianjin demanded that state-owned companies abandon the services of third-party services and switch to a single platform - this process is planned to be completed by the end of September 2022.

Connection to "State cloud" implies cooperation with Tianjin State Asset Cloud Sci-Tech and the purchase of cloud computing, cloud security, desktop and e-invoicing services from it. The service provider company belongs to the Tianjin State Assets Committee and has existed since March 2021. The requirement to reduce all systems to a single cloud platform is being put forward in China for the first time. It is stated that such a transition is being carried out in order to centrally manage the data of state-owned companies and enhance their security.

Source:

[https://weibo.com/caixincn?nick=%E8%B2%A1%E6%96%B0%E7%B6%B2&is\\_all=1#\\_loginLayer\\_1630406750584](https://weibo.com/caixincn?nick=%E8%B2%A1%E6%96%B0%E7%B6%B2&is_all=1#_loginLayer_1630406750584)

### **International cooperation – SAMR**

According to the expert portal PaRR Global, China is actively discussing the conclusion of a memorandum of cooperation with the competition authorities of Singapore, Pakistan and the EAEU. On August 27th, at the GCR Connect: Law Leaders Asia Pacific conference, Jing Jin, Director of Competition Policy and International Cooperation of the SAMR Antimonopoly Bureau, said that China has also begun preparations for signing an antitrust cooperation agreement with Russia, which will be the first intergovernmental agreement since SAMR creation in 2018. She added that the amendments to the Antimonopoly Law of the PRC were approved at the executive meeting of the State Council of the PRC on June 9th and will now be submitted to the NPC Standing Committee for approval.

Source: <https://app.parr-global.com/intelligence/view/intelcms-wjkpb4>

### **Meituan commented on the active investigation**

On April 20th, China's largest food delivery service, Meituan, released its Results report, where it mentioned that SAMR launched an investigation against the company in April of this year on suspicion of anti-competitive behaviour. As of the day the report was published, the investigation is ongoing, Meituan said. At the current stage, the company cannot predict its bottom line, and there is a possibility that it will have to change its business practices or pay a significant fine on-demand.

Source: [https://m.thepaper.cn/baijiahao\\_14276709](https://m.thepaper.cn/baijiahao_14276709)

### **Zhejiang Province Launches Online Food Delivery Service**

On July 6th, the province launched the Online Food Delivery System, which allows consumers to check a seller's business license in real-time and monitor the health of the kitchen, the cleanliness and freshness of food, and the process of their preparation live.

293 thousand restaurants have already been verified on the platform, 6 089 kitchens from Meituan and Ele.me platforms have connected to live broadcasts,

and couriers' data has already been uploaded to a digital platform to control transport security and protect their legitimate interest.

Sources: [http://www.hangzhou.gov.cn/art/2021/7/7/art\\_812262\\_59038405.html](http://www.hangzhou.gov.cn/art/2021/7/7/art_812262_59038405.html)  
[https://m.thepaper.cn/baijiahao\\_14270056](https://m.thepaper.cn/baijiahao_14270056)

## **"Purge" of commercial and independent financial media**

The Cyberspace Administration of China said commercial websites and independent media (self-media) often publish incorrect financial news, distort economic policy, post recommendations on financial markets, spreading rumours and gossip. In this regard, the Administration launched a campaign to eliminate such violations - it is aimed at independent financial media, key public accounts, sections on finance and economics of key commercial websites and information portals about finance.

Source: <https://mp.weixin.qq.com/s/kBKRMCFDxSoRfv33VGtzOg>

## **Expedited review of innovative patents**

According to the head of the State Intellectual Property Office, Shen Changyu, the competent authorities will be guided by the needs of the state and user experience, improve the quality and efficiency of reviewing patent applications for significant inventions in order to promote innovation. Currently, the processing time for such applications is about 13.3 months, while for a regular patent, it is 19.1 months. Agencies will expedite smart system upgrades and apply different review policies when it comes to innovative working concepts and methods.

Source: [http://www.news.cn/english/2021-08/28/c\\_1310154618.htm](http://www.news.cn/english/2021-08/28/c_1310154618.htm)

## **Sharing services successfully eliminate violations**

Under the administrative leadership of SAMR, 8 share brands (Halomoto, DiDi Bike, Meituan, Xiaodian.so, etc.) have successfully eliminated disruptions in their activities, effectively contained price increases and increased pricing transparency. In June, the FDA required the brands mentioned to clarify pricing rules and regulate their pricing and competitive practices. Thus, a slight decrease in prices for shared chargers has already been noted: currently, the average price is 2.2-3.3 CNY (\$ 0.3-0.5) per hour and the share of outlets where no more than 3 CNY is charged per hour. (\$ 0.46), - 69% -96%. However, in tourist areas and similar areas, prices are still above average.

Source: [http://www.samr.gov.cn/xw/zj/202108/t20210830\\_334198.html](http://www.samr.gov.cn/xw/zj/202108/t20210830_334198.html)

## Penalty of China Aviation Fuel branch

The branch of China Aviation Fuel in Yunnan received a fine for abuse of dominance: when selling aviation kerosene, in addition to the cost of the fuel itself, it additionally levied third-party payments, including the cost of road transportation ( $\approx$  \$ 45-125 per ton), thereby increasing the costs of fuel operators. The market was defined as the market for the supply and refuelling of aviation kerosene within the boundaries of Yunnan province, where the branch was the only supplier of this type of fuel and controlled 100% of the market. The law enforcement officer seized illegal profits from the branch in the amount of  $\approx$  \$ 1.55 million and collected a fine of  $\approx$  \$ 362 thousand (1% of the proceeds for 2018).

Source: [http://www.samr.gov.cn/fldj/tzgg/xzcf/202108/t20210831\\_334226.html](http://www.samr.gov.cn/fldj/tzgg/xzcf/202108/t20210831_334226.html)

## Tencent terminates exclusive music contracts

Tencent Music Entertainment (TME) has announced the termination of most of its exclusive music contracts. The remaining counterparties were also notified of the need to terminate. From now on, copyright holders can transfer the rights to broadcast tracks to other subjects. Tencent said it would continue to work with them and enter into new contracts in a "Non-exclusive" format. The company noted that it values good business relationships with its partners and will work with the rest of the sector to contribute to the prosperity and innovation of the Chinese music industry. On July 24, SAMR ordered Tencent to relinquish exclusive music rights as a measure to restore competition following the merger of TME and China Music.

In addition, Tencent also promised to change the rules for watching TV series on its Tencent Video platform: at the moment, it is "pay-by-install", but access to each subsequent episode can only be unlocked after watching the previous one, which forces users to watch all episodes in order and violates their right free choice.

Sources:

[https://mp.weixin.qq.com/s/fBPhIRd0IT4eo2C0\\_W0fRg](https://mp.weixin.qq.com/s/fBPhIRd0IT4eo2C0_W0fRg) (TME WeChat account)

[https://m.thepaper.cn/baijiahao\\_14323844](https://m.thepaper.cn/baijiahao_14323844) (the Paper)

## Regulators interviewed transport platforms

On September 1st, the Ministry of Transport, SAMR and other competent departments met with 11 platforms for online transport ordering - T3, Meituan, DiDi, Caocao and others. Regulators said that some platforms are engaged in unfair competition and organize illegal transportation, recruiting drivers and vehicles without appropriate licenses, which infringes on the rights and interests of passengers and jeopardizes the security and stability of the sector. They demanded not to cross the borders established by law, to protect the competitive order in the market, and to guarantee passengers' rights and interests and the safety of user data. At the same time, it was emphasized that each platform needs to conduct a self-examination and eliminate its violations as soon as possible, namely, develop a compliance plan and a schedule for its implementation.

Source: <https://mp.weixin.qq.com/s/WtcxD1WJ59c9OMAWwMqW4g> (China Ministry of Transport's WeChat account)

## **Alibaba will contribute to the achievement of "Shared Prosperity"**

Against the backdrop of Xi Jinping's recently proclaimed goal of "universal prosperity" digital giants are actively trying to increase their social value. So, on September 2nd, Alibaba announced the implementation of a program of 10 steps - investments in it by 2025 would amount to 100 billion CNY ( $\approx$  \$ 15.5 billion). Of these,  $\approx$  \$ 3 billion will go towards creating the Shared Prosperity Fund, which will become a "model organization" in achieving this goal. The program implies the promotion of scientific and technological progress, digitalization of lagging regions, the growth of micro, small and medium-sized businesses, the development of agriculture, increasing employment opportunities and health care, etc.

Earlier, the largest technology companies of the country - Tencent, Meituan, Pinduoduo and others - have already entered the "race of philanthropists". They announced the investment of billions of dollars in new socially significant programs, funds and initiatives.

Источники:

<https://mp.weixin.qq.com/s/ggRb-IYRNhkhkBBpXvI7HA> (аккаунт Alibaba в WeChat)

<http://baijiahao.baidu.com/s?id=1709781318788873804&wfr=spider&for=pc> (Zhejiang Daily)

## **Case on the protection of personal data**

On September 1st, the Chongqing 1st Middle People's Court heard a case of violation of the public interest of consumers: as part of sales promotion, Chongqing Yangqi posted on its WeChat account a list of buyers who had already purchased a specific product, indicating their addresses, phone numbers, full names and ID numbers. The list of over 10 thousand consumers attracted many shares in just a few days. The Chongqing Consumer Protection Committee (the plaintiff) requested an open letter of apology and at least four public interest education events within a year from the date of the judgment. The company admitted its violation and agreed to the requirements presented. As a result, the parties signed an amicable agreement. This case became the first public interest case in China related to personal data protection following the adoption of the new PRC law on such protection on August 20th.

Source: [http://k.sina.com.cn/article\\_3686739204\\_dbbf2d04019010hpx.html](http://k.sina.com.cn/article_3686739204_dbbf2d04019010hpx.html) (China Market Regulation News, Sina portal)