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A Review of Anti-monopoly Cases in China's Platform Economy After 2021

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Abstract: With the rapid development of the digital economy, the monopoly problem of China's platform economy has become increasingly prominent. Since the implementation of the "Anti-Monopoly Guidelines for the Platform Economy" in 2021, China's anti-monopoly law enforcement agencies have investigated and dealt with multiple cases of platform economy enterprises abusing their dominant market positions, including typical cases such as Alibaba, Meituan, China National Knowledge Infrastructure (CNKI), and Ningbo Senpu Information. This article, through the analysis of these cases, discovers that the current law enforcement has problems such as insufficient fines, unclear scope of penalties, and the absence of supervision over foreign-funded enterprises. Furthermore, the post-event supervision model is difficult to effectively prevent monopolistic behaviors and may harm the interests of consumers. To this end, this article suggests raising the upper limit of fines, optimizing the calculation standards of penalties, strengthening the supervision of foreign-funded enterprises, and promoting full-process supervision to enhance the deterrent effect of the law. In the future, it is necessary to further improve the anti-monopoly mechanism for the platform economy and balance the efficiency of law enforcement with market vitality.

Keywords: platform economy, China anti-monopoly, Case Review

1. Introduction

With the deep penetration of digital technology and the wide rise of platform business model, digital platform economy has increasingly become the core component of China's market economic structure. By 2023, the digital economy constituted 42.8% of China's GDP, an increase of 1.3 percentage points from the previous year. The digital economy experienced a nominal year-on-year growth rate of 7.39%. The contribution rate of digital economy growth to GDP growth reached 66.45%. The digital economy has long become an indispensable engine for China's economic development [1]. Large Internet platform enterprises have promoted the reconstruction of economic operation mode by virtue of their positive role in resource allocation, consumption expansion and efficiency improvement. However, while driving economic growth, such platforms have gradually shown a trend of high market concentration, resulting in a series of social and legal problems. Especially under the joint action of data network effect, algorithm control mechanism and user lock-in mechanism, platform enterprises have brought many unprecedented challenges in competitive behavior, market structure and even institutional governance.

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Since its formal implementation in 2008, the Anti-Monopoly Law of the People's Republic of China, as the basic law of the rule of law for competition in China, has established the basic institutional framework for anti-monopoly and played an important role in maintaining the order of fair market competition. However, the original design of the law mainly aimed at the traditional market situation, and failed to fully anticipate the new anti-competitive behaviors caused by the platform economy and their complex effects. In the current business environment, although some platform enterprises may not form traditional "monopoly agreements" or abuse their "dominant market position", data has become a key competitive element. Competitive behaviors formed through algorithmic manipulation, rule-making and data advantages have a potential crowding-out effect on market entry barriers, consumer choice space and even the innovation ecosystem. This change has increased the complexity of platform monopolies [2]. In response to this change, since 2021, the State Administration for Market Regulation (SAMR) has strengthened law enforcement on anti-monopoly behaviors of platform enterprises, focusing on the investigation and punishment of concentration of business operators, monopoly by agreement and abuse of dominant market position. The Anti-Monopoly Guidelines of the Anti-monopoly Commission of the State Council for the Sector of Platform Economy (hereinafter Anti-Monopoly Guidelines) issued in the same year further clarified the basic framework of platform monopoly identification and supervision, marking the transformation of regulatory concept from traditional rule transplantation to structural adaptation. Almost five years have passed since the release of the Anti-Monopoly Guidelines for the economy. To prevent and stop monopolistic behaviors in the platform economy sector, protect fair market competition, promote the standardized, orderly, innovative and healthy development of the platform economy, and safeguard the interests of consumers and the public interest, this guideline is formulated in accordance with the Anti-Monopoly Law of the People's Republic of China and other relevant laws and regulations. It was issued by the Anti-Monopoly Committee of The State Council on February 7, 2021 [3]. As a first attempt, this article identifies and reviews all the penalty decisions made by the SAMR in the platform economy since the introduction of the Anti-Monopoly Guidelines, with the aim of providing a holistic view of the enforcement landscape against tech companies in China.

2. Anti-monopoly enforcement in the platform economy

Like most antitrust jurisdictions around the world, China’s Anti-Monopoly Law consists of three pillars which, respectively, regulate anti-competitive agreements, abuse of market dominance, and mergers that substantially lessen competition. Since a comprehensive analysis of all antitrust violations would exceed the scope of this study, this article focuses merely on anti-competitive and abuse of market dominance cases. Through multiple sources, it is found that the SAMR has decided four relevant competition cases in the platform economy since the release of the 2021 Anti-Monopoly Guidelines. For the sake of discussion, this paper refers to these cases as the Alibaba case, Meituan case, CNKI case and Ningbo Senpu Information case. The following table summarizes and organizes the cases of abuse of market position in the relevant cases:

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Table 1. Summary of cases related to the abuse of dominant market position by the platform economy

Abuse of dominance cases	Alibaba [4]	Meituan [5]	China HowNet [6]	Ningbo Senpu Information [7]
law enforcement agency	State Administration for Market Regulation	State Administration for Market Regulation	State Administration for Market Regulation	Shanghai Municipal Market Supervision and Administration Bureau
Time of filing for investigation	December,2020	April,2021	May,2022	March,2023
Penalty time	April 6, 2021	September 26, 2021	December 26, 2022	August 13, 2024
How long has the illegal act lasted	2015-2019	2018-2021	Long-term practice of refusing to trade	2019-2023
The percentage of fines in sales	4%	3%	5%	2%
Fine(yuan)	18.228 billion yuan	3,442,439,866 yuan	87.6 million yuan	4,532,782.9 yuan
Sale	The sales volume within China in 2019 was 455.712 billion yuan	The domestic sales volume in China in 2020 was 114,747,995,546 yuan	The domestic sales volume in China in 2021 was 1.752 billion yuan	The domestic sales revenue in China in 2022 was 4,532,782.9 yuan
Average market shares	66.656%	69.167%	64.796%	100%
Relevant market	The online retail platform service market	Online food delivery platform services	Chinese academic literature database service	Bond voice brokerage real-time trading data sales market

This article does not intend to comment on the judgment of individual cases; hence it does not go through the facts of the four cases identified. Instead, extracted important enforcement information from each case, and presented it in the above table for comparison. As such, this paper will conduct an in-depth and comprehensive analysis from a broader perspective. Upon carefully examining the table, I identified a few features of anti-monopoly enforcement in the platform economy in China.

Firstly, China’s anti-monopoly law enforcement work has demonstrated the coverage of China's anti-monopoly law enforcement is constantly expanding and deepening. This feature is not only reflected in those mainstream and widely used platform economy enterprises, such as the well-known Meituan and Alibaba, but also includes some atypical trading platforms, such as China National Knowledge Infrastructure (CNKI) and Ningbo Senpu Information Technology Co., LTD. This clearly reveals those diverse and extensive characteristics, with the aim of conducting all-round supervision and control over possible monopolistic behaviors in various fields. In addition to the leading enterprises in the Internet industry, different types of platforms such as knowledge service platforms and financial information service platforms have also gradually been fallen within the jurisdiction of law enforcement. This diversified law enforcement direction is of extremely

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significant importance for maintaining a fair competitive order in a broader market. This not only helps to create a healthy and fair development environment for enterprises of different scales and types, but also further promotes the balance and stability of the entire market ecosystem, ensuring that the vitality and innovation of the market are continuously stimulated, thereby promoting the sustainable and healthy development of the entire social economy.

However, behind the merits demonstrated above, there are also some obvious limitations. First of all, one might argue that the frequency of law enforcement has been low. When the Anti-Monopoly Guidelines were introduced in 2021, the public expected more rigorous and frequent crackdowns on monopolistic practices. However, since the Guidelines have come into effect, the antitrust authority has only issued, on average, one penalty decision in the platform economy each year. Given the currently limited number of cases and the absence of any discernible trend in the existing data, it is not yet possible to determine whether future enforcement frequency will increase or decrease. Therefore, ongoing observation and analysis will be required throughout the subsequent administrative-law enforcement process.

Despite the above uncertainties, it is clear that the severity of the current law enforcement penalties (and thus deterrence) is relatively light. According to Article 57 of Chapter 7 of the Anti-Monopoly Law of the People's Republic of China, where a dominant market position is abused, the anti-monopoly law enforcement agency shall order the cessation of the illegal act, confiscate the illegal gains, and impose a fine of not less than one percent but not more than ten percent of the sales revenue of the previous year [8]. Upon analyzing the data in the table, it becomes evident that in most cases, fines for monopolistic behavior only account for 2% to 5% of the enterprise's annual sales. The maximum limit of the fine is far lower than that stipulated by law. In anti-monopoly law enforcement, fines have three tasks: first, to clarify the content of violations; second, to prevent the occurrence of illegal acts; and third, to deal with already illegal acts. One of the important functions of fines is to prevent similar crimes from happening. On the one hand, it has a deterrent effect (fines make the costs and benefits of calculating enterprises unequal), and on the other hand, it has a moral effect (making law-abiding enterprises pay more attention to such behaviors) [9]. This study previously noted that, the maximum limit of fines for anti-monopoly law enforcement in China is lower than the maximum limit stipulated by law. This cannot help but raise doubts about whether the deterrent effect of such fines is sufficient. If they fail to serve as an appropriate warning to enterprises, the authority of the law may be called into question.

Furthermore, Table 1 shows that the sales figures of the offenders for whom SAMR is used to calculate fines sometimes vary in different circumstances. As mentioned in the previous text, enterprises that violate the law shall be fined between one percent and ten percent of their sales revenue of the previous year [8]. However, there is no specific regulation on whether the competent authorities should incorporate part of the sales revenue of the offenders (such as global or local sales revenue; Fines shall be determined for the sales of the entire enterprise group or only for the sales generated by the business involving its illegal acts. For instance, Table 1 demonstrates that some convicted enterprises, such as Alibaba, which not only operate in the domestic market but also have business operations all over the world. The parent company has many subsidiaries. However, in the case of Alibaba, the basis for calculating the fine is merely its sales volume in the domestic market. This calculation method is relatively simple, but lacks comprehensiveness. Therefore, should the fine be precisely imposed on the company's single monopoly business? Should fines be imposed on individual businesses or the entire company? If a monopoly occurs in a certain business within a company, should it be fined separately? Take Alibaba as an example again. Alibaba is a large enterprise with multiple subsidiaries, and it has several e-commerce software with different

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positioning. If fines are only imposed on a single subsidiary, the deterrent effect of 1% to 10% of its sales on the operation of Alibaba's parent company will be greatly reduced. Moreover, if this subsidiary has both the Chinese market and overseas markets, but only imposes a fine of 1% to 10% of its domestic sales in China, it may not only fail to have a certain deterrent effect on Alibaba's parent company, but even on the subsidiary. Therefore, when it comes to the monopolistic behavior of a certain e-commerce enterprise, the determination of the scope of the fine becomes crucial. If fines are only imposed on specific e-commerce enterprises with monopolistic behaviors, although it can more accurately reflect the severity of illegal acts in that specific market segment, it will result in insufficient deterrent effect This will lead to a situation where enterprises are fined but do not truly change their monopolistic behaviors, thus resulting in the phenomenon of "fines not being rectified". The existence of this phenomenon not only weakens the seriousness and authority of the law, but also provides the possibility for other enterprises to follow suit, further intensifying the vicious competition in the market and failing to achieve the preventive and deterrent effects that fines aim to achieve.

In addition to the enforcement intensity, it is evident that all the enterprises listed in the table are domestic Chinese enterprises, and there are no foreign-funded enterprises. This article conducted an investigation into this matter and found that SAMR issued an announcement on February 4, 2025, stating that it would investigate Google Inc. in accordance with Article 2 of the Anti-Monopoly Law of the People's Republic of China [10]. However, the reasons for this are still unclear, and Google Inc. is also conducting related platform economy business in China. Although it cannot be regarded as one of the cases of the abuse of market dominance by the platform economy, it does indirectly confirm that the State Administration for Market Regulation also supervises foreign-funded enterprises. However, at the same time, no announcement or relevant documents were found on the official website regarding the investigation into Apple Inc. 'either-or behavior that was circulating on the Internet. As for why there are relatively few foreign-funded enterprises involved, this article makes the following speculations. First, due to the well-developed domestic platform economy in China, the market share of foreign-funded platform economies in China is relatively small, making it difficult to form a monopolistic market share. Second, the scope of anti-monopoly supervision in China is limited and law enforcement lacks transparency. If foreign enterprises in China are not effectively supervised and sanctioned, some may take chances and engage in monopolistic conduct, thereby undermining the market's fair competitive environment. Furthermore, in terms of law enforcement transparency, due to the lack of presentation of relevant data on foreign-funded enterprises, it is difficult to comprehensively assess the monopoly situation of the entire market, and it is also not conducive to establishing a complete, fair and effective market supervision system. If this situation persists, it may lead to an imbalance in regulatory pressure faced by enterprises of different natures in the domestic market, affecting the rational allocation of market resources and the healthy development of the industry. To ensure fair competition and the healthy development of the market, it is necessary for regulatory authorities to expand the scope of supervision over foreign-funded enterprises in China. Suggestions for the second speculation will be mentioned in the recommendation section.

3. Recommendations

In light of the above, in-depth reflection and refinement of the existing enforcement mechanism are imperative to fully unleash the law's deterrent force and sustain a healthy market environment.

Further strengthening of enforcement calls for a set of practical and feasible measures. Firstly, raise the upper limit of fines to a reasonable range to ensure that the fine amount has a sufficient

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punitive impact on the operation of enterprises and achieves a genuine deterrent effect, but there will be no large-scale bankruptcies. Secondly, for large enterprises operating globally, the basis for calculating fines should be more consistent and comprehensive. Not only the domestic market but also the operating income of various markets around the world should be taken into consideration. This approach will help ensure the fairness and effectiveness of fines and avoid unfair penalties caused by regional differences. Alternatively, it can be referred to that under the framework of European competition law, the legal person status of a subsidiary is not regarded as an absolute guarantee, which means that it cannot be ruled out that the actions taken by a subsidiary with legal person status can still be traced back to be related to the parent company [11]. The controversy over the accuracy and targeting of penalties for monopolistic behavior, that is, whether it is necessary to clearly distinguish whether fines should be imposed on the entire company or on specific subsidiaries. It can be referred to that under the framework of European competition law, the legal person status of a subsidiary is not regarded as an absolute guarantee. In other words, it cannot be ruled out that the actions of a subsidiary with legal person status can still be traced back to be related to the parent company. According to the investigation results, subsidiaries with more connections to the parent company will be punished for the sales of the entire group, while those with fewer connections will only be punished for individual subsidiaries. This can ensure the accuracy and pertinence of the penalties and avoid causing unnecessary adverse effects on other subsidiaries with good performance. It can not only exert a certain deterrent effect on the group company, but also prevent the influence on other subsidiaries. At the same time, the parent company of the group may, after weighing the pros and cons, believe that the benefits of monopolistic behavior outweigh the drawbacks, thereby playing a certain preventive role.

In terms of the supervision of foreign-funded enterprises, if the issues related to regulatory limitations and transparency as discussed in the previous text arise, the following suggestions are made. In terms of regulatory limitations, first of all, it is necessary for regulatory authorities to expand the regulatory scope of foreign-funded enterprises in China, establish and improve the regulatory mechanism for foreign-funded enterprises, strengthen the monitoring and analysis of the market behavior of foreign-funded enterprises, and promptly detect potential signs of monopoly. Secondly, it is necessary to enhance international regulatory cooperation and information sharing. As many foreign enterprises operate across borders, cooperating with regulatory authorities in other countries can provide more comprehensive enterprise information and enhance regulatory efficiency. For the transparency of law enforcement, relevant laws and regulations should be improved, the monopolistic behaviors of foreign-funded enterprises and the penalty standards should be clearly defined, and relevant information should be disclosed in a timely manner. Only in this way can an open, fair and orderly market environment be created, enabling domestic and foreign enterprises to compete under the same rules, promoting the long-term stability and prosperity of the Chinese market. It is also conducive to enhancing China's influence and say in the global market regulation field and promoting the coordinated development of international market regulation.

China adopts a post-event regulatory model. Regulatory concepts must be updated, and supervision should be integrated throughout the entire process. In most instances, administrative penalties are only imposed after monopolies have emerged or even after they have exerted a social impact [12]. This process may not only bring difficulties to investigation and evidence collection, but also harm the interests of more people over time. Although post-event supervision punished the involved enterprises, due to the difficulty in determining and tracing the losses of the victims, most of the funds were used as public funds rather than returned to the victims. Therefore, the fines can at most be said to have contributed to the principle of compensation in corrective justice in an abstract

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and indirect way [9]. To protect the interests of the people, the number of victims should be minimized, and full-process supervision is a better choice. However, there may be an increase in administrative costs or overcorrection. It is still unrealistic to completely eliminate this behavior.

4. Conclusion

Since 2021, the implementation of anti-monopoly laws and regulations targeting the platform economy in China has demonstrated that the legal framework has adapted to the progress and challenges of the digital age. The release of the "Guiding Opinions on Anti-Monopoly in the Platform Economy" marks an important step in combating monopolistic behaviors of digital platforms. However, analysis of four cases involving abuse of dominant market position in the platform economy reveals that the imposed fines exert insufficient deterrence, and shortcomings persist in penalty severity, supervisory scope, and enforcement procedures. Therefore, how to further improve the regulatory and penalty mechanisms for anti-monopoly on online platforms still requires innovation and practice.

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