



January 20<sup>th</sup>, 2023

## Chinese antitrust. Review #1 (2023)

### QUOTES

Administrative punishment is a mandatory measure to restore competition, but a fine is not an end in itself: it is much more important to regulate the activities of an economic entity, stimulate innovation and economic activity and protect the interests of consumers and society <...> To maintain fair competition in the market, the “visible” hand of the government is required.

Member of the Expert Advisory Group of the Antimonopoly Committee of the State Council of the People's Republic of China, Professor of the China University of Politics and Law Shi Jiangzhong on the antitrust fine of the CNKI scientific and academic base <sup>1</sup>

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<sup>1</sup> Source: [https://www.samr.gov.cn/xw/mtjj/202212/t20221226\\_352415.html](https://www.samr.gov.cn/xw/mtjj/202212/t20221226_352415.html)

## Antitrust fine of CNKI scientific platform

The scientific and academic database of the China National Knowledge Infrastructure received a fine for illegal use of data in the market for online posting of research papers in the Chinese market in the amount of 87.6 million yuan ( $\approx$ 13 million US dollars).

The market regulator initiated an antitrust investigation in May 2022 after several cases of litigation against CNKI generated significant media coverage. In 2014, the study found, CNKI consistently increased the prices of its services, restricted access to scrutiny, signed an exclusive membership agreement, and enforced their performance through punishments and rewards. In response to the penalty platform launched community work and publicly made 15 commitments, including: to reduce prices by at least 30% within three years, upon reaching an agreement on the quality of services, creating a price agreement mechanism, expanding the range of services, increasing activity, charitable activities, etc.

SAMR's comments say that the regulator does not establish counterparties, the subject and price of the most preferable for the economic sector, but only prohibits unreasonable and discriminatory actions that infringe on the productivity of other platforms.

In parallel, CNKI is under investigation by the China Cyberspace Administration, as the platform has large amounts of data and information related to national defense, telecommunications and finance.

Sources:

[https://www.samr.gov.cn/xw/zj/202212/t20221226\\_352396.html](https://www.samr.gov.cn/xw/zj/202212/t20221226_352396.html)

[https://www.samr.gov.cn/xw/mtjj/202212/t20221226\\_352416.html](https://www.samr.gov.cn/xw/mtjj/202212/t20221226_352416.html)

<https://www.scmp.com/tech/policy/article/3204639/chinas-antitrust-body-fines-academic-database-platform-owner-cnki-us126-million-monopolistic>

## DiDi has resumed registration of new users

Taxi online ordering platform DiDi said it had completed the elimination of violations in its activities and, with the permission of the regulator, is resuming the registration of new users in its main application after more than a year's pause.

In the summer of 2021, DiDi's IPO on a U.S. exchange caught the attention of Chinese regulators. The platform became the first internet giant in China to be investigated for cybersecurity. The investigation was jointly conducted by a whole group of 12 departments, including the Cyberspace Administration, the Ministry of Public Security, the General Tax Administration, etc. Since the beginning of the investigation, all 25 applications of the DiDi family have been removed from the catalogs of application stores, and registration of new users has been suspended. Regulators have identified numerous violations related to the processing of personal data, as well as unnamed problems that threaten the national security of the state. DiDi received a fine of \$1.2 billion, and earlier, during the investigation, it decided to leave the US exchange.

Angela Zhang, associate professor at the University of Hong Kong School of Law, said the re-registration is not only good news for the company itself, it marks a long-awaited course correction

by the Chinese authorities: “We are seeing a mobilization of bureaucratic efforts to revive the Chinese technology sector across the board.”

Sources:

[http://finance.ce.cn/stock/gsgdbd/202301/18/t20230118\\_38354782.shtml?ivk\\_s a=1023197a](http://finance.ce.cn/stock/gsgdbd/202301/18/t20230118_38354782.shtml?ivk_s a=1023197a)

<https://www.scmp.com/tech/big-tech/article/3207005/chinese-ride-hailing-giant-didi-chuxing-resumes-new-user-registrations-marking-latest-sign-thaw>

### State transport platform ready for launch

A new transportation service platform will be launched soon: an application called Qiangguo Jiaotong ("transport of a strong power") developed by government departments has already passed beta testing. The services it offers include online ordering of a taxi, various types of cargo transportation, and so on. The taxi service will be launched first: the platform will act as a capacity aggregator for more than 10 taxi services. Qiangguo Jiaotong is expected to cover more than 90% of the total market capacity in the future. The platform will be interfaced with WeChat, Alipay, Douyin, etc.

Source:

<https://www.chinadaily.com.cn/a/202301/18/WS63c7e701a31057c47ebaa6c7.html>

### Amendments to AML are in the top 10 market regulation news in 2022

SAMR has published on the official website the 10 most important market regulation news over the past year. The list includes the first amendments to the Antimonopoly Law of the People's Republic of China (AML) for 14 years of its existence and the antitrust fine of the China National Knowledge Infrastructure (CNKI) scientific and academic database. Also mentioned is the success of the first week of education on fair competition policy, which took place from 14<sup>th</sup> to 18<sup>th</sup> November. Other news include the development of a “single large national market” course, China’s emergence as the world’s first in terms of the number of valid patents (3.6 million), an active fight against violations in the production and circulation of anti-epidemic agents, etc.

Source: [https://www.samr.gov.cn/xw/mtjj/202301/t20230113\\_352848.html](https://www.samr.gov.cn/xw/mtjj/202301/t20230113_352848.html)

### Market regulation goals for 2023

On January 13<sup>th</sup>, at the all-China working meeting on market regulation, the directions of regulatory work for 2023 were determined:

- to strengthen the party leadership of market regulation, to ensure the right course;
- strengthen the development of market entities, stabilize market expectations;
- “normalize” regulation (i.e. make it the norm, not an emergency measure), promote healthy and regulated development of the platform economy, help platforms drive economic

development, create jobs and increase international competitiveness;

- Strengthen antimonopoly measures and the fight against unfair competition;
- improve the quality of goods and services;
- ensure the safety of goods and services;
- intensively engage in sectors related to the material conditions of life of the people, to protect the key interests of the masses;
- strengthen the regulatory system, develop international cooperation;
- control the moral and ethical education of employees.

Source: [https://www.samr.gov.cn/xw/gdt/202301/t20230113\\_352863.html](https://www.samr.gov.cn/xw/gdt/202301/t20230113_352863.html)

### Baidu and NetEase representatives not included in the CPPCC

Several representatives of the top management of the Chinese big tech were not included in the People's Political Consultative Council of China (CPPCC). The CPPCC is an advisory body for discussing the most important state, political and economic issues. Its sessions are held once a year simultaneously with the meeting of the Supreme Legislative Body (NPC) - representatives of various parties, public organizations, industry associations, industries, etc. make their proposals and initiatives. Robin Li (co-founder of the search service Baidu), William Ding (founder and CEO of the gaming giant Netease) and Wang Xiaochuan (founder of the search service Sogou) were not included in the list of members of the new line-up, although Zhou Hongyi, the creator of the 360 antivirus, retained his place. At the same time, there are no restrictions on the age or number of terms when choosing candidates. During their time with the CPPCC, these leaders have come up with many ideas, such as amending laws to commercialize technology or standardizing chargers to reduce waste. The list of NPC members will also be released soon, which still includes Tencent founder Pony Ma and Xiaomi founder Lei Jun. Bigtech representatives in the legislative and advisory bodies of China (for 2018)<sup>2</sup>

National People's Congress		
<b>Tencent</b>	Pony Ma Huateng (CEO)	Smartphone applications
<b>Xiaomi</b>	Lei Jun (Chairman)	Smartphones
<b>Lenovo Group</b>	Yang Yuanqing (Chairman)	Personal computers
<b>iFlytek</b>	Liu Qingfeng (Chairman)	Voice recognition
<b>Hangzhou Hikvision Digital Technology</b>	Chen Zongnian (Chairman)	Surveillance cameras
<b>Tianqi Lithium</b>	Jiang Weiping (Chairman)	Lithium for batteries
Chinese People's Political Consultative Conference		
<b>Baidu</b>	Robin Li (Chairman)	Internet search
<b>JD.com</b>	Li Qiangdong (CEO)	E-commerce
<b>NetEase</b>	Ding Lei (CEO)	Online services
<b>Qihoo 360 Technology</b>	Zhou Hongyi (Chairman)	Internet security
<b>Kuang-Chi Group</b>	Liu Ruopeng (Chairman)	Aerospace materials

<sup>2</sup> Source: <https://asia.nikkei.com/Spotlight/China-People-s-Congress-2018/Internet-executives-well-represented-at-China-s-National-Congress>

Source: <https://www.scmp.com/tech/big-tech/article/3207284/big-tech-cppcc-baidus-robin-li-neteases-ding-lei-no-longer-delegates-chinas-top-political-advisory>

## First data export security check passed

The Beijing Hospital was the first in China to receive permission from the Cyberspace Administration to export data: it is planned to exchange medical information with a university medical center in the Netherlands. The case was the first time that sensitive data and personal information collected in China were assessed before being transferred overseas. Security assessment is needed to better control cross-border data flows: the relevant rules for checking exported data came into force in September last year.

Source: <https://www.globaltimes.cn/page/202301/1284015.shtml>

## "Organization" of the Internet before the Spring Festival

On the eve of the New Year according to the Chinese calendar, the Cyberspace Administration of China launched a special campaign to "cleanse" the online space from violations and unwanted phenomena. The regulator will focus on aggressive disputes in fan communities, the spread of gossip, the incorrect behavior of bloggers-influencers, ostentatious waste in gifts and organizing the New Year's table (drunkenness, gluttony), online gambling and online fraud, "feudal superstitions" (fortune-telling), encouragement of Internet addiction, etc. It is forbidden to manipulate users and put pressure on their feelings in order to increase sales. Separate mention is made of the fight against rumors about the economic situation, food, accidents, including false information about COVID-19 - the current dynamics of the incidence, non-existent government measures, unverified antiviral prescriptions, fictitious experience of the disease, etc.

The Administration conducts such thematic campaigns on a regular basis: such measures are aimed at creating a healthier and more hospitable space on the Internet. In 2022, the agency held educational meetings with 8608 platforms, issued warnings to 6767 platforms, fined 512 platforms; 621 platforms were temporarily suspended or updated, and 420 mobile apps were removed from catalogs. Together with the telecommunications authorities, the Administration also canceled licenses, deregistered or closed more than 25,000 websites.

Sources:

[https://mp.weixin.qq.com/s/bmwqmdCNZ3jC\\_hlC4mpXVA](https://mp.weixin.qq.com/s/bmwqmdCNZ3jC_hlC4mpXVA)

<https://mp.weixin.qq.com/s/qg-jfBLPGGwQIUC15aLFoA>

## U.S. Congress Reduces HFCAA Compliance Time

The time period for Chinese companies whose shares are traded on US exchanges to comply with the HFCAA (Foreign Companies Liability Act) has been reduced by a decision of Congress from three to two years. Now they are required to meet the requirements for their audit documentation within a shorter period. Erica Williams, Chairman of the Public Company Accounting Oversight Board (PCAOB), endorsed the

decision: "Investors are now better protected as Congress has created the leverage the Board needs to force China to provide access to its records for the first time in history. Increasing pressure will help us put the squeeze on China and keep our investors safe."

Previously, the PCAOB confirmed that it was able to obtain full access to the audit documents of the relevant Chinese companies, but has not yet made a decision on their compliance with the established standards.

Source: <https://pcaobus.org/news-events/news-releases/news-release-detail/pcaob-chair-applauds-congressional-action-to-shorten-hfcaa-timeline>

## China and Switzerland mutually recognize auditing standards

China and Switzerland have reached an agreement on mutual recognition of auditing standards and systems of control over the activities of auditors. According to the Ministry of Finance of China, Swiss auditing standards and the International Standard on Auditing recognized by Switzerland are equivalent to Chinese ones. The systems of control and supervision over the accounting companies of the Swiss Confederation and the People's Republic of China, which check the financial statements of economic entities, are also equivalent. The move will strengthen Sino-Swiss economic and trade exchanges and financial cooperation, as well as conjugate capital markets and expand investment channels.

Source: <https://news.cgtn.com/news/2022-12-23/China-Switzerland-achieve-mutual-recognition-of-auditing-standards-1fZXwQL6poc/index.html>

## FT: CSRC will ban companies from certain industries from listing

According to Financial Times sources, the China Securities Regulatory Commission (CSRC) plans to ban local companies operating in certain sectors from listing on key Chinese exchanges: in this way, Beijing wants to redistribute funding to strategically important industries. A total ban ( "red light" ) will be placed on the food and beverage sector, alcohol, COVID-19 supplies, educational, funeral and religious services. For certain areas, partial restrictions are provided ( "yellow light" ): applications from clothing and furniture companies will be subject to stricter scrutiny.

The news has not received official confirmation from the representatives of the Commission. According to the Chinese news portal CLS, there have always been industry restrictions on entering Chinese exchanges. For example, as early as last year, there were no IPOs of companies involved in the circulation of Chinese baijiu vodka, anti-epidemic agents and educational services on the Shanghai and Shenzhen stock exchanges, but representatives of the food, defense industry and textile industries were present.

Sources:

<https://www.ft.com/content/1fdb223f-49aa-4ccf-9b82-5573554515d9>

<https://www.123.com.cn/kline/a860259.html>

## Jack Ma to lose control of Ant Group

The Chinese fintech giant Ant Group has announced changes to its corporate governance structure, with the main outcome being to strip founder Jack Ma of de facto control over Ant Group's operations, instead splitting independent voting rights equally between him and nine other people. According to SCMP, Jack Ma's relinquishment of his powers of control marks a critical step towards completing the company's restructuring and easing pressure from Chinese authorities on technology companies. Ma Jianyang, a spokesman for the People's Bank of China, has already said that the elimination of financial irregularities in 14 major platforms, including Ant Group, is "essentially complete": companies now operate in accordance with the law and compete on a fair basis. He warned, however, that consumer protection would continue to be strengthened and financial sector regulation tightened.

Sources:

<https://www.antgroup.com/en/notices/1>

<https://www.globaltimes.cn/page/202301/1283774.shtml>

## Bloomberg: Chinese authorities will buy "golden shares" in Alibaba and Tencent

According to Bloomberg, Chinese state-owned companies are preparing to buy back the so-called "golden shares" in subsidiaries of the Alibaba and Tencent families, which will give Beijing greater control over key players in the world's largest Internet market. By acquiring such shares, the government would theoretically be able



to appoint directors or influence important corporate decisions, which would have a long-term impact on the entire industry. For example, a division of the China Cyberspace Administration has already bought a 1% stake in Alibaba's digital media subsidiary. At the same time, a new director was appointed, whose name coincides with the name of an employee of the Administration. Bloomberg analysts note that this form of government control could prompt additional scrutiny of Chinese companies doing business abroad, and thus slow down their expansion. For example, the authorities already own a “gold stake” in Bytedance, and the company regularly faces increased scrutiny from regulators in the US and EU.

Source: <https://www.bloomberg.com/news/articles/2023-01-13/alibaba-tencent-fall-after-report-beijing-taking-golden-shares>

### Video streaming platform introduces 4.5-day work week

Starting this year, video streaming platform Leshi officially introduced a 4.5-day work week for its employees: in addition to Saturday and Sunday, half of Wednesday is also considered a day off. This is the first such precedent among Internet platforms in China: now the total working time in Leshi will be only 36 hours a week. Recently, tech giants have often been criticized for excessive workloads and encouraging overtime. The 996 schedule, that is, work from nine in the morning to nine in the evening, six days a week, is widespread – such an intense rhythm has already led to several fatal incidents. Alibaba founder Jack Ma was an active promoter of the 996 system. “Working at such a pace is a huge blessing,” he said, noting that not everyone has the opportunity to work so hard. “If you don’t put in more time and energy than others, how will you become successful?” However, now the focus is not on economic efficiency “at any cost”, but on decent working conditions and concern for the physical and psychological health of employees.

Source: [https://www.thepaper.cn/newsDetail\\_forward\\_21417758](https://www.thepaper.cn/newsDetail_forward_21417758)

### Progress in delegating consideration of M&A applications

In August, SAMR launched a pilot devolution project to review applications for economic concentration transactions. Part of the cases began to be transferred to local market regulation departments in Beijing, Shanghai, Chongqing, Guangdong and Shaanxi provinces. In five months, 135 cases were delegated, which accounted for 32.7% of the total volume of applications submitted. The pilot program has received positive feedback from companies and the general public. When selecting the participating agencies, the General State Administration took into account such factors as the level of economic development of the area, geographical location, the distribution of applications by region, and the availability of human resources. Selected local governments posted a special section on M&A on their official websites, where they began to publish information on the status of applications, information materials and case decisions. Some have even integrated a pop-up window into the business registration system warning them to file applications.



Delegation is carried out with the help of a unified system of antimonopoly verification of economic concentration transactions, where the necessary documents are exchanged.

Source: [https://www.samr.gov.cn/xw/zj/202301/t20230103\\_352598.html](https://www.samr.gov.cn/xw/zj/202301/t20230103_352598.html)

### TikTok director meets with European officials

The parties held several meetings to discuss TikTok's plan to comply with the new European regulations (DMA and DSA). The company's CEO, Shou Zi Chu, confirmed that the company intends to do even more than what is required by law. He also commented on the recent incident with employees who obtained unauthorized access to the data of two journalists: applicable protocols were tightened and violators were fired. In addition, Shou Tzu Chu indicated a willingness to establish a data center in Ireland - this will reduce the flow of data sent from Europe. It was also noted that TikTok is in the process of migrating all US user data to Oracle's servers in the US.

The European approach to TikTok is different from the US - the EU is more focused on the company's actions in the regional market and pays less attention to Chinese ownership. "I expect TikTok to fully meet its commitment to "over-fulfill the plan" to comply with EU laws and restore the confidence of European regulators," said Vera Zhurova, Vice President of the European Commission for Values and Transparency.

Source: [https://www.wsj.com/articles/tiktok-chief-meets-with-top-eu-officials-11673368317?mod=Searchresults\\_pos1&page=1](https://www.wsj.com/articles/tiktok-chief-meets-with-top-eu-officials-11673368317?mod=Searchresults_pos1&page=1)

### Deepfake regulation goes into effect

Deep fusion technology regulations have come into force in China. The rules establish the obligation to add a conspicuous marking for a fully synthesized or significantly modified voice, persons and environment, and when reposting informational messages, to preserve information about the original source. Deep synthesis service providers with the ability to reach a wide audience need to be registered. At the same time, socially significant products, applications and functions must undergo security checks before entering the market.

"From now on, in China, people will see a small icon in the corner of such videos and photos, just like they do for advertisements," comments AI analytics expert Ding Daoshi. "Although no specific punitive measures have yet been introduced, the regulation is designed in accordance with the provisions of the law in many other areas, including network security, e-commerce, data security and protection of personal data, which means that fines will be applied in accordance with applicable laws and regulations".

Sources:

[http://www.cac.gov.cn/2022-12/11/c\\_1672221949318230.htm](http://www.cac.gov.cn/2022-12/11/c_1672221949318230.htm)

<https://www.globaltimes.cn/page/202301/1283499.shtml>

## Provinces and cities report on antitrust regulation

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17.01.2023

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Хубэй: Всесторонне повышать эффективность антимонопольного правоприменения

16.01.2023

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13.01.2023

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12.01.2023

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Цилинь: Защищать справедливую конкуренцию при помощи антимонопольного регулирования

11.01.2023

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Пекин: Стать столицей справедливой конкуренции

10.01.2023

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Аньхой: Создать справедливую среду. Защитить справедливый конкурентный порядок

09.01.2023

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Чжэцзян: Антиинфляционные цифровые мощности. Усиливать комплексные меры

05.01.2023

The municipal and provincial market regulatory departments published progress reports on their antimonopoly activities, thus emphasizing the special role of antimonopoly policy. For example, Zhejiang Province has created the Zhejiang Online Justice Regulatory Platform, which has already accumulated data from more than 472 e-commerce platforms to detect

and stop abuses and violations, while Guizhou Province has developed an antitrust compliance guide for industry associations and business entities.

Source:

[https://www.samr.gov.cn/fldys/sjdt/dfdt/202301/t20230117\\_352904.html](https://www.samr.gov.cn/fldys/sjdt/dfdt/202301/t20230117_352904.html)

## Platforms fight corruption

Zero tolerance for corruption was announced by Tencent and Meituan. Tencent noted in the report that individuals found to be involved in corrupt activities are immediately fired without the right to be hired again, and partners and contractors are blacklisted. In 2022, more than 70 cases were internally investigated, more than 100 people were fired, and more than 10 were transferred to public security organs for further investigation. Tencent has openly published a list of unscrupulous individuals and undesirable partners. Meituan reported 41 criminal cases, the transfer of 107 people to the judiciary (of which 47 are employees of the company, and 60 representatives of partner organizations) and the refusal of further cooperation with 41 companies.

Sources:

<https://baijiahao.baidu.com/s?id=1755152763138734949&wfr=spider&for=pc>

<https://mp.weixin.qq.com/s/NphetnOXkKkObumHhSCEYQ>