



The Chinese Anti-Monopoly Policy: Achievements, Problems and Prospect

1937 WU HANHONG

School of Economics

Renmin University of China



- The AML which has been in effect since August 1st, 2008, is an important milestone in the building of the Chinese socialist market economy system. The formulation of AML not only marked the formation of the competition law system of the Chinese socialist market economy, but also the establishment of the basic framework of the Chinese competition policy.



- The promulgation and implementation of the Chinese AML have displayed the firm determination of the country to let the market exert a basic role in the allocation of resources and to further improve the socialist market economy system. So far, our AML has been in practice for four years. How to understand and evaluate the Chinese anti-monopoly policy and look it ahead in the future are the basic content of the paper. This presentation material is structured as follows:

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- C** the Difficulties that the Chinese Anti-Monopoly Policy Is Facing With.....
- D** Prospect of the Chinese Anti-Monopoly Policy in the Future.....



A the Framework of the Chinese Anti-Monopoly Policy

- **1. the Aim**
- **2. the Regulation Targets**
- **3. the Chinese Anti-Monopoly Enforcement Authorities**
- **4. the Chinese Anti-Monopoly Enforcement System.**



B the Achievements of the Chinese Anti-Monopoly Policy

- **1. Actively enhancing the formulation of the supporting provisions in accordance with the law .**



Table 1: The provisions issued by the anti-monopoly bureau of National Development and Reform Commission(NDRC).

NO.	Name	Purpose	Date of promulgation
1	Provisions on Anti Price Monopoly	For preventing and stopping price monopoly activities	December 29, 2010
2	The Provisions on the Administrative Procedures for Law Enforcement against Price Monopoly	For regulating and safeguarding the legal performance of the anti-Price Monopoly functions	December 29, 2010



Table 2: The provisions issued by the anti-monopoly bureau of Ministry of Commerce (MOFCOM).

NO.	Name	Purpose	Date of promulgation
1	Measures for Notification of Concentrations between Undertakings	For regulating notification of concentrations between undertakings	November 21, 2009
2	Measures for Review of Concentrations between Undertakings	For regulating the anti-monopoly review of concentrations of undertakings and making clear the procedures on the review of concentrations between undertakings.	November 24, 2009
3	Provisional Provisions on Divestiture of Assets or Business during Implementation of Concentrations between Undertakings	For regulating implementation of decisions on antitrust reviews that provide divestiture of business or assets as a condition for concentration between undertakings, and for successful implementation of divestiture of assets or business.	July 5, 2010
4	Interim Provisions on Assessment of the Competition Impact of Concentration of Undertaking	For standardizing the anti-monopoly review for undertaking concentrations	August 29, 2011
5	Interim Measures for the Investigation and Decision in Connection with the Failure of the Concerned Undertaking(s) Reaching Notification Threshold to File a Prior Notification	For regulating the investigation and decision in connection with the failure of the concerned undertaking(s) reaching notification threshold to file a prior notification	December 30, 2011



Table 3: The provisions issued by the anti-monopoly bureau of State Administration of Industry and Commerce (SAIC).

NO.	Name	Purpose	Date of promulgation
1	Provisions on Industry and Commerce Authorities' Prohibiting Monopoly Agreements	For prohibiting monopoly agreements in economic activities	December 31, 2010
2	Provisions on Industry and Commerce Authorities' Prohibiting Abuse of Dominant Market Position	For prohibiting abuse of dominant market position in economic activities	December 31, 2010
3	Provisions on Industry and Commerce Authorities' Prohibiting Abusing Administrative Powers to Exclude or Restrict Competition	For prohibiting abusing administrative powers to exclude or restrict competition	December 31, 2010
4	Provisions on the Procedures for Industry and Commerce Authorities to Investigate and Sanction Monopoly Agreements and Abuse of Dominant Market Position	For regulating and ensuring the industry and commerce authorities' investigation and sanction against monopolistic activities	May 26, 2009
5	Provisions on the Procedures for Industry and Commerce Authorities to Prohibit Excluding or Restricting Competition by Abusing Administrative Powers	For prohibiting excluding or restricting competition by abusing administrative powers.	May 26, 2009



B the Achievements of the Chinese Anti-Monopoly Policy

- **1. Actively enhancing the formulation of the supporting provisions in accordance with the law .**
- **2. Actively carrying out the anti-monopoly enforcement work.**

Table 4 : The list of the numbers of concentration between undertakings reviewed and concluded by MOFCOM every year since the implementation of AML.

Year	2008	2009	2010	2011	2012
the numbers of reviewed and concluded by MOFCOM every year	16	78	109	171	154*

Note: *marked the statistics by the end of November, 2012.

B the Achievements of the Chinese Anti-Monopoly Policy

- **1. Actively enhancing the formulation of the supporting provisions in accordance with the law .**
- **2. Actively carrying out the anti-monopoly enforcement work.**
- **3. Actively facilitating the development of the anti-monopoly enforcement staff and international exchange and cooperation.**



B the Achievements of the Chinese Anti-Monopoly Policy

- **4. Establishing the anti-monopoly judicial and hearing mechanism in China.**
- **5. Deepening the studies of the relevant anti-monopoly field.**



C the Difficulties that the Chinese Anti-Monopoly Policy Is Facing With

- **1. More attention should be paid to the role of the anti-monopoly policy.**
- **2. More attention should be paid to fostering the culture of competition.**
- **3. The anti-monopoly enforcement capacity and level are to be increased.**
- **4. The anti-monopoly enforcement bodies still lack coordination with the industry watchdogs.**



D Prospect of the Chinese Anti-Monopoly Policy in the Future

- **1. The administrative procedure for the anti-monopoly enforcement will become more perfect and mature.**
- **2. The anti-monopoly civil litigation will get further development.**
- **3. The academic research of anti-monopoly will obtain further progress.**

summary

- Since the implementation of the Chinese anti-monopoly policy four years ago, the anti-monopoly enforcement agencies have been actively promoting the formulation of the supporting provisions and guidelines in accordance with the AML, carrying out the anti-monopoly enforcement work, enhancing the development of the capacity of the anti-monopoly enforcement staff. At present, the anti-monopoly judicial and hearing system has already been established and the relevant research in the anti-monopoly field is getting deepened.

summary

- On the other hand, people from all walks of life in the society have not paid enough attention to the anti-monopoly policy, the anti-monopoly enforcement capacity is to be increased and the culture of competition is to be further fostered. In the future, the Chinese anti-monopoly administrative enforcement will get improved, the anti-monopoly civil litigation will obtain further development and the anti-monopoly academic research will be increased to a new level.



Thank You !

