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# 中华人民共和国反垄断法

# Anti-monopoly Law of the People's Republic of

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主席令第六十八号

Presidential Decree No. 68

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第一章 总 则

Chapter 1 General Provisions

第一条   为了预防和制止垄断行为，保护市场公平竞争，提高经济运行效率，维护消费者利益和社会公共利益，促进社会主义市场经济健康发展，制定本法。

Article 1 This Law is formulated for the purposes of preventing and curbing monopolistic activities, protecting fair market competition, raising economic efficiency, safeguarding the interests of consumers and the public interest, and promoting healthy development of socialist market economy.

第二条   中华人民共和国境内经济活动中的垄断行为，适用本法；中华人民共和国境外的垄断行为，对境内市场竞争产生排除、限制影响的，适用本法。

Article 2 This Law shall apply to monopolistic activities in economic activities in the People's Republic of China; this Law shall apply to monopolistic activities outside the People's Republic of China which eliminate or restrict competition in domestic markets.

第三条   本法规定的垄断行为包括：

Article 3 For the purposes of this Law, "monopolistic conducts" include:

（一）经营者达成垄断协议；

1. monopolistic agreements between operators;

（二）经营者滥用市场支配地位；

2. abuse of dominant market position by operators; and

（三）具有或者可能具有排除、限制竞争效果的经营者集中。

(III) Concentration of undertakings which has or may have the effect of eliminating or restricting competition.

第四条   国家制定和实施与社会主义市场经济相适应的竞争规则，完善宏观调控，健全统一、开放、竞争、有序的市场体系。

Article 4 The State formulates and implements competition rules which correspond to the socialist market economy, improves macro-control, and improves upon a unified, open, competitive and orderly market system.

第五条   经营者可以通过公平竞争、自愿联合，依法实施集中，扩大经营规模，提高市场竞争能力。

Article 5 Undertakings may implement concentration pursuant to the law through fair competition, voluntary alliance, expand their scale of business and raise market competitiveness.

第六条   具有市场支配地位的经营者，不得滥用市场支配地位，排除、限制竞争。

Article 6 Business operators with a dominant market position shall not abuse their dominant market position to eliminate or restrict competition.

第七条   国有经济占控制地位的关系国民经济命脉和国家安全的行业以及依法实行专营专卖的行业，国家对其经营者的合法经营活动予以保护，并对经营者的经营行为及其商品和服务的价格依法实施监管和调控，维护消费者利益，促进技术进步。

Article 7 With regard to the industries controlled by the State-owned economy and concerning the lifeline of national economy and national security or the industries implementing exclusive operation and sales according to law, the State protects the lawful business activities of the business operators therein. The State also, according to law, regulates and controls their business activities and the prices of their commodities and services so as to safeguard the interests of consumers and promote technological progress.

前款规定行业的经营者应当依法经营，诚实守信，严格自律，接受社会公众的监督，不得利用其控制地位或者专营专卖地位损害消费者利益。

Undertakings in the industries stipulated in the preceding paragraph shall operate their businesses pursuant to the law, act with honesty and integrity, exercise strict self-discipline, accept public supervision, and shall not make use of their controlling status or exclusive status to harm consumer interests.

第八条   行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，排除、限制竞争。

Article 8 The administrative authorities and organisations which are empowered by the laws and regulations to carry out public administration functions shall not abuse their administrative powers to eliminate or restrict competition.

第九条   国务院设立反垄断委员会，负责组织、协调、指导反垄断工作，履行下列职责：

Article 9 The State Council establishes the Anti-monopoly Commission to take charge of organizing, coordinating, guiding anti-monopoly work and to perform the following functions:

（一）研究拟订有关竞争政策；

1. studying and drafting relevant competition policies;

（二）组织调查、评估市场总体竞争状况，发布评估报告；

(II) organizing the investigation and assessment of overall market competition, and issuing assessment reports;

（三）制定、发布反垄断指南；

(III) Formulating and issuing anti-monopoly guidelines;

（四）协调反垄断行政执法工作；

(IV) coordinating anti-monopoly administrative law enforcement; and

（五）国务院规定的其他职责。

(V) other functions as prescribed by the State Council.

国务院反垄断委员会的组成和工作规则由国务院规定。

The State Council shall prescribe the composition and working rules of the anti-monopoly commission.

第十条   国务院规定的承担反垄断执法职责的机构（以下统称国务院反垄断执法机构）依照本法规定，负责反垄断执法工作。

Article 10 The authorities designated by the State Council to undertake anti-monopoly law enforcement (hereinafter the "anti-monopoly law enforcement authorities under the State Council") are responsible for anti-monopoly law enforcement in accordance with this Law.

国务院反垄断执法机构根据工作需要，可以授权省、自治区、直辖市人民政府相应的机构，依照本法规定负责有关反垄断执法工作。

The anti-monopoly enforcement agency of the State Council may, based on work requirements, delegate the relevant anti-monopoly enforcement tasks to the corresponding agencies of the People's Governments of the provinces, autonomous regions and centrally-administered municipalities pursuant to the provisions of this Law.

第十一条   行业协会应当加强行业自律，引导本行业的经营者依法竞争，维护市场竞争秩序。

Article 11 Industry associations shall strengthen industry self-governance, guide the undertakings in the respective industries to compete pursuant to the law, safeguard the order of market competition.

第十二条   本法所称经营者，是指从事商品生产、经营或者提供服务的自然人、法人和其他组织。

Article 12 For the purpose of the Law, operators refer to the natural persons, legal persons and other organizations engaging in the production or operation of commodities or the provision of services.

本法所称相关市场，是指经营者在一定时期内就特定商品或者服务（以下统称商品）进行竞争的商品范围和地域范围。

For the purpose of the Law, the relevant market refers to the commodity scope or territorial scope within which the business operators compete with each other during a specific commodity or service (hereinafter collectively referred to as the "commodities").

第二章 垄断协议

Chapter 2 Monopoly Agreements

第十三条   禁止具有竞争关系的经营者达成下列垄断协议：

Article 13 Competing undertakings are prohibited from concluding the following monopoly agreements:

（一）固定或者变更商品价格；

1. fixing or changing prices of commodities;

（二）限制商品的生产数量或者销售数量；

(II) restricting the production or sales volume of the goods;

（三）分割销售市场或者原材料采购市场；

(III) dividing the sales market or the raw material procurement market;

（四）限制购买新技术、新设备或者限制开发新技术、新产品；

(IV) restricting the purchase of new technology or new equipment or the development of new technology or new products;

（五）联合抵制交易；

(V) making boycott transactions; or

（六）国务院反垄断执法机构认定的其他垄断协议。

(VI) Other monopoly agreements as determined by the State Council anti-monopoly law enforcement authorities.

本法所称垄断协议，是指排除、限制竞争的协议、决定或者其他协同行为。

For the purposes of this Law, "monopoly agreements" refer to agreements, decisions or other concerted practices which eliminate or restrict competition.

第十四条   禁止经营者与交易相对人达成下列垄断协议：

Article 14 Business operators are prohibited from reaching the following monopolistic agreements with their trading parties:

（一）固定向第三人转售商品的价格；

1. fixing the price of commodities for resale to a third party;

（二）限定向第三人转售商品的最低价格；

(II) restricting the minimum price of commodities for resale to a third party; or

（三）国务院反垄断执法机构认定的其他垄断协议。

(III) Other monopoly agreements as determined by the State Council anti-monopoly law enforcement authorities.

第十五条   经营者能够证明所达成的协议属于下列情形之一的，不适用本法第十三条、第十四条的规定：

Article 15 Article 13 or 14 hereof is not applicable if operators can prove that the agreements are concluded for:

（一）为改进技术、研究开发新产品的；

1. for the purpose of improving technologies, researching and developing new products;

（二）为提高产品质量、降低成本、增进效率，统一产品规格、标准或者实行专业化分工的；

2. For the purpose of improving product quality, reducing cost, improving efficiency, unifying product specifications or standards, or carrying out professional labor division;

（三）为提高中小经营者经营效率，增强中小经营者竞争力的；

(III) for the purpose of increasing operational efficiency and enhancing the competitiveness of small and medium business operators; and

（四）为实现节约能源、保护环境、救灾救助等社会公共利益的；

(IV) Realizing public interests such as energy conservation, environmental protection, and disaster relief and rescue;

（五）因经济不景气，为缓解销售量严重下降或者生产明显过剩的；

(V) Alleviating serious drop in sales or obvious overproduction during an economic downturn;

（六）为保障对外贸易和对外经济合作中的正当利益的；

(VI) Protecting legitimate interests in foreign trade or foreign economic cooperation; or

（七）法律和国务院规定的其他情形。

(VII) other circumstances stipulated by laws and the State Council.

属于前款第一项至第五项情形，不适用本法第十三条、第十四条规定的，经营者还应当证明所达成的协议不会严重限制相关市场的竞争，并且能够使消费者分享由此产生的利益。

Where the provisions of Article 13 and Article 14 do not apply under any of the circumstances stipulated in item (1) to item (5) of the preceding paragraph, the business operator shall also prove that the agreement it has entered into will not seriously restrict competition in the relevant market, and can allow consumers to share the benefits thereto.

第十六条   行业协会不得组织本行业的经营者从事本章禁止的垄断行为。

Article 16 Industry associations shall not make arrangements for undertakings in the respective industries to engage in any monopolistic conduct prohibited by this Chapter.

第三章 滥用市场支配地位

Chapter III Abuse of Dominant Market Position

第十七条   禁止具有市场支配地位的经营者从事下列滥用市场支配地位的行为：

Article 17 An undertaking with dominant market position is prohibited from engaging in the following abuse of its dominant market position:

（一）以不公平的高价销售商品或者以不公平的低价购买商品；

1. Selling commodities at unfairly high prices or buying commodities at unfairly low prices;

（二）没有正当理由，以低于成本的价格销售商品；

(II) Selling commodities at a price lower than cost without any justifiable reason;

（三）没有正当理由，拒绝与交易相对人进行交易；

(III) Refusing to trade with relevant trading counterparts without justified reasons;

（四）没有正当理由，限定交易相对人只能与其进行交易或者只能与其指定的经营者进行交易；

(IV) requiring a trading party to trade exclusively with itself or with a designated business operator only without any justifiable cause;

（五）没有正当理由搭售商品，或者在交易时附加其他不合理的交易条件；

(V) tying products or imposing unreasonable trading conditions at the time of trading without any justified reason;

（六）没有正当理由，对条件相同的交易相对人在交易价格等交易条件上实行差别待遇；

(VI) Giving differential treatments, without any justifiable reason, to those transaction counterparts with the same conditions in terms of transaction price, etc.;

（七）国务院反垄断执法机构认定的其他滥用市场支配地位的行为。

(VII) other acts of abusing dominant market position identified by the Anti-monopoly Authority under the State Council.

本法所称市场支配地位，是指经营者在相关市场内具有能够控制商品价格、数量或者其他交易条件，或者能够阻碍、影响其他经营者进入相关市场能力的市场地位。

For the purposes of this Law, "dominant market position" refers to a market position where an undertaking can control the prices, quantities or other trading conditions of commodities in the relevant market, or can hinder or affect other undertakings' ability to enter the relevant market.

第十八条   认定经营者具有市场支配地位，应当依据下列因素：

Article 18 A finding of the dominant market position of an undertaking shall be based on the following factors:

（一）该经营者在相关市场的市场份额，以及相关市场的竞争状况；

1. market share of the operator in a relevant market, and competition conditions of the relevant market;

（二）该经营者控制销售市场或者原材料采购市场的能力；

2. the ability of the operator to control the sales market or the raw material procurement market;

（三）该经营者的财力和技术条件；

(III) the financial and technical conditions of the business operator;

（四）其他经营者对该经营者在交易上的依赖程度；

(IV) the dependency of other operators on the operator in terms of trading;

（五）其他经营者进入相关市场的难易程度；

(V) the degree of difficulty for other undertakings to enter the relevant market; and

（六）与认定该经营者市场支配地位有关的其他因素。

(VI) other factors related to the determination of dominant market position of the operator.

第十九条   有下列情形之一的，可以推定经营者具有市场支配地位：

Article 19 An undertaking may be presumed to have a dominant market position if:

（一）一个经营者在相关市场的市场份额达到二分之一的；

1. one business operator's market share in a relevant market reaches 1/2;

（二）两个经营者在相关市场的市场份额合计达到三分之二的；

2. the combined market share of two undertakings in the relevant market reaches 2/3; or

（三）三个经营者在相关市场的市场份额合计达到四分之三的。

3. the joint market share of three undertakings in the relevant market reaches 3/4.

有前款第二项、第三项规定的情形，其中有的经营者市场份额不足十分之一的，不应当推定该经营者具有市场支配地位。

In Items (2) and (3) of this Article, if the market share of some operator is less than 1/10, it shall not be presumed as having a dominant market position.

被推定具有市场支配地位的经营者，有证据证明不具有市场支配地位的，不应当认定其具有市场支配地位。

Where an undertaking which is deemed to hold dominant market position is able to prove that it does not hold dominant market position, it shall not be deemed to hold dominant market position.

第四章 经营者集中

Chapter 4 Concentration of Undertakings

第二十条   经营者集中是指下列情形：

Article 20 A concentration refers to the following circumstances:

（一）经营者合并；

1. merger of undertakings;

（二）经营者通过取得股权或者资产的方式取得对其他经营者的控制权；

2. a business operator obtains the control over another business operator by way of acquiring its equities or assets; or

（三）经营者通过合同等方式取得对其他经营者的控制权或者能够对其他经营者施加决定性影响。

(III) A business operator acquires control over or is able to exert decisive influences on another business operator by signing a contract for this purpose.

第二十一条   经营者集中达到国务院规定的申报标准的，经营者应当事先向国务院反垄断执法机构申报，未申报的不得实施集中。

Article 21 Where a concentration reaches the threshold of declaration stipulated by the State Council, a declaration must be lodged in advance with the anti-monopoly law enforcement authorities. A concentration shall not be implemented without such declaration.

第二十二条   经营者集中有下列情形之一的，可以不向国务院反垄断执法机构申报：

Article 22 Where a concentration is under any of the following circumstances, it may not be declared to the anti-monopoly law enforcement authorities:

（一）参与集中的一个经营者拥有其他每个经营者百分之五十以上有表决权的股份或者资产的；

1. One of the participating undertakings owns more than 50% of the voting shares or assets of each of the other undertakings; or

（二）参与集中的每个经营者百分之五十以上有表决权的股份或者资产被同一个未参与集中的经营者拥有的。

(II) More than 50% of the voting shares or assets of each business operator involved in the concentration is owned by a business operator who is not involved in the concentration.

第二十三条   经营者向国务院反垄断执法机构申报集中，应当提交下列文件、资料：

Article 23 An operator declaring concentration to the anti-monopoly law enforcement authorities under the State Council shall submit the following documents and materials:

（一）申报书；

1. A declaration;

（二）集中对相关市场竞争状况影响的说明；

(II) An explanation of the impact of the concentration on the relevant market competition;

（三）集中协议；

(III) The concentration agreement;

（四）参与集中的经营者经会计师事务所审计的上一会计年度财务会计报告；

(IV) The financial and accounting reports for the previous fiscal year of the participating undertakings which have been audited by the accounting firms; and

（五）国务院反垄断执法机构规定的其他文件、资料。

(V) other documents and materials as required by the anti-monopoly law enforcement authorities under the State Council.

申报书应当载明参与集中的经营者的名称、住所、经营范围、预定实施集中的日期和国务院反垄断执法机构规定的其他事项。

The declaration shall state the name, address, scope of business of the undertakings involved in the concentration, the scheduled date of concentration and any other matters stipulated by the anti-monopoly enforcement agency of the State Council.

第二十四条   经营者提交的文件、资料不完备的，应当在国务院反垄断执法机构规定的期限内补交文件、资料。经营者逾期未补交文件、资料的，视为未申报。

Article 24 Where the documents and materials submitted by an undertaking are incomplete, the undertaking shall submit the remaining documents and materials within the period stipulated by the anti-monopoly enforcement agency of the State Council. If the business operator fails to supplement documents and materials within the specified time limit, the declaration shall be deemed not to have been made.

第二十五条   国务院反垄断执法机构应当自收到经营者提交的符合本法第二十三条规定的文件、资料之日起三十日内，对申报的经营者集中进行初步审查，作出是否实施进一步审查的决定，并书面通知经营者。国务院反垄断执法机构作出决定前，经营者不得实施集中。

Article 25 The anti-monopoly enforcement agency of the State Council shall carry out preliminary examination of the declared concentration of undertakings within 30 days from receipt of the documents and materials submitted by an undertaking which comply with the provisions of Article 23 of this Law, decide whether to carry out further examination, and notify the undertaking in writing. Before the Anti-monopoly Authority under the State Council makes a decision, the concentration may not be implemented.

国务院反垄断执法机构作出不实施进一步审查的决定或者逾期未作出决定的，经营者可以实施集中。

Where the anti-monopoly enforcement agency of the State Council has decided not to carry out further examination or has not made a decision within the stipulated period, the undertaking may implement the concentration.

第二十六条   国务院反垄断执法机构决定实施进一步审查的，应当自决定之日起九十日内审查完毕，作出是否禁止经营者集中的决定，并书面通知经营者。作出禁止经营者集中的决定，应当说明理由。审查期间，经营者不得实施集中。

Article 26 Where the anti-monopoly enforcement agency of the State Council has decided to carry out further examination, the examination shall be completed within 90 days from the date of the decision and a decision on whether the concentration of undertakings is to be prohibited shall be made and the undertaking shall be notified in writing. Where a decision on prohibition of concentration is made, the reason shall be stated. During the review period, the concentration may not be implemented.

有下列情形之一的，国务院反垄断执法机构经书面通知经营者，可以延长前款规定的审查期限，但最长不得超过六十日：

Under any of the following circumstances, the anti-monopoly law enforcement authorities under the State Council may extend the investigation period by no more than 60 days after informing the business operators in writing:

（一）经营者同意延长审查期限的；

1. the business operators concerned agree to extend the review period;

（二）经营者提交的文件、资料不准确，需要进一步核实的；

(II) The documents or materials submitted by the undertaking are inaccurate, and need to be further verified; or

（三）经营者申报后有关情况发生重大变化的。

(III) A major change happens to the undertaking after the declaration.

国务院反垄断执法机构逾期未作出决定的，经营者可以实施集中。

Where the anti-monopoly enforcement agency of the State Council failed to make a decision within the stipulated period, the undertaking may implement the concentration.

第二十七条   审查经营者集中，应当考虑下列因素：

Article 27 The following factors shall be considered in the review of concentration of undertakings:

（一）参与集中的经营者在相关市场的市场份额及其对市场的控制力；

1. the market shares of the business operators involved in the concentration and their control over the market;

（二）相关市场的市场集中度；

2. The degree of market concentration of the relevant market;

（三）经营者集中对市场进入、技术进步的影响；

(III) the impact of the concentration of business operators on market access and technological progress;

（四）经营者集中对消费者和其他有关经营者的影响；

(IV) The impact of the concentration of business operators on consumers and other relevant business operators;

（五）经营者集中对国民经济发展的影响；

(V) The impact of the concentration of business operators on the development of national economy.

（六）国务院反垄断执法机构认为应当考虑的影响市场竞争的其他因素。

(VI) Other factors that the anti-monopoly law enforcement authorities under the State Council regard as necessary to be considered.

第二十八条   经营者集中具有或者可能具有排除、限制竞争效果的，国务院反垄断执法机构应当作出禁止经营者集中的决定。但是，经营者能够证明该集中对竞争产生的有利影响明显大于不利影响，或者符合社会公共利益的，国务院反垄断执法机构可以作出对经营者集中不予禁止的决定。

Article 28 Where a concentration has or may have an effect of eliminating or restricting competition, the anti-monopoly enforcement agency of the State Council shall make a decision to prohibit the concentration. However, where the business operator is able to prove that the positive impact of the concentration on competition is evidently greater than the negative impact or that the concentration complies with the public interest, the anti-monopoly enforcement agency of the State Council may decide to allow the concentration of business operators.

第二十九条   对不予禁止的经营者集中，国务院反垄断执法机构可以决定附加减少集中对竞争产生不利影响的限制性条件。

Article 29 Where a concentration is not prohibited, the anti-monopoly enforcement agency of the State Council may decide to impose restrictive conditions to mitigate the adverse impact of the concentration on competition.

第三十条   国务院反垄断执法机构应当将禁止经营者集中的决定或者对经营者集中附加限制性条件的决定，及时向社会公布。

Article 30 The anti-monopoly enforcement agency of the State Council shall promptly announce to the public a decision on prohibition of concentration of undertakings or a decision on imposition of restrictive conditions on concentration of undertakings.

第三十一条   对外资并购境内企业或者以其他方式参与经营者集中，涉及国家安全的，除依照本法规定进行经营者集中审查外，还应当按照国家有关规定进行国家安全审查。

Article 31 Where a foreign investor participates in the concentration of undertakings by merging and acquiring a domestic enterprise or by any other means and national security is involved, the national security review shall be carried out as well as the national security review in accordance with the relevant provisions of this Law.

第五章 滥用行政权力排除、限制竞争

Chapter 5 Abuse of Administrative Power to Eliminate or Restrict Competition

第三十二条   行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，限定或者变相限定单位或者个人经营、购买、使用其指定的经营者提供的商品。

Article 32 The administrative authorities and organisations which are empowered by the laws and regulations to carry out public administration functions shall not abuse their administrative powers to restrict, directly or under any pretext, the sale, purchase or use by organisations and individuals of commodities provided by designated undertakings.

第三十三条   行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，实施下列行为，妨碍商品在地区之间的自由流通：

Article 33 Any administrative organ or organization empowered by a law or administrative regulation to administer public affairs may not abuse its administrative power to commit any of the following acts that impede the free flow of goods between regions:

（一）对外地商品设定歧视性收费项目、实行歧视性收费标准，或者规定歧视性价格；

1. imposing discriminative charging items, standards or prices on commodities from outside the locality;

（二）对外地商品规定与本地同类商品不同的技术要求、检验标准，或者对外地商品采取重复检验、重复认证等歧视性技术措施，限制外地商品进入本地市场；

(II) Set different technical requirements or inspection standards for products from other regions, or require that said products undergo repeated inspections, repeated certifications or other discriminatory technical procedures in order to restrict the entry of such products into the local market.

（三）采取专门针对外地商品的行政许可，限制外地商品进入本地市场；

(III) Impose administrative licensing specifically on non-local goods in order to restrict the entry of such goods into the local market;

（四）设置关卡或者采取其他手段，阻碍外地商品进入或者本地商品运出；

(IV) Set up barriers or take other measures to obstruct commodities from outside the locality from entering the local region or commodities from outside the local region; or

（五）妨碍商品在地区之间自由流通的其他行为。

(V) other activities hindering the free flow of goods between regions.

第三十四条   行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，以设定歧视性资质要求、评审标准或者不依法发布信息等方式，排斥或者限制外地经营者参加本地的招标投标活动。

Article 34 Any administrative organ or organization empowered by a law or administrative regulation to administer public affairs may not abuse its administrative power to reject or restrict non-local operators to participate in local bidding activities by setting discriminatory qualification requirements or assessment standards or releasing information in an unlawful manner.

第三十五条   行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，采取与本地经营者不平等待遇等方式，排斥或者限制外地经营者在本地投资或者设立分支机构。

Article 35 The administrative authorities and organisations which are empowered by the laws and regulations to carry out public administration functions shall not abuse their administrative powers to adopt unequal treatment between local undertakings to exclude or restrict non-local undertakings from investing or establishing branches in the locality.

第三十六条   行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，强制经营者从事本法规定的垄断行为。

Article 36 The administrative authorities and organisations which are empowered by the laws and regulations to carry out public administration functions shall not abuse their administrative powers to force business operators to engage in the monopoly acts stipulated in this Law.

第三十七条   行政机关不得滥用行政权力，制定含有排除、限制竞争内容的规定。

Article 37 The administrative authorities shall not abuse their administrative powers to formulate provisions which exclude or restrict competition.

第六章 对涉嫌垄断行为的调查

Chapter 6 Investigation into Suspected Monopolistic Practices

第三十八条   反垄断执法机构依法对涉嫌垄断行为进行调查。

Article 38 The anti-monopoly enforcement agency shall investigate alleged monopolistic activities pursuant to the law.

对涉嫌垄断行为，任何单位和个人有权向反垄断执法机构举报。反垄断执法机构应当为举报人保密。

Any organisation or individual shall have the right to report an alleged monopoly act to the anti-monopoly enforcement agency. The anti-monopoly enforcement agency shall keep confidentiality of the identity of the informant.

举报采用书面形式并提供相关事实和证据的，反垄断执法机构应当进行必要的调查。

Where a report is made in writing and the relevant facts and evidence are provided, the anti-monopoly enforcement agency shall carry out the requisite investigation.

第三十九条   反垄断执法机构调查涉嫌垄断行为，可以采取下列措施：

Article 39 When investigating suspected monopolistic practices, the anti-monopoly law enforcement authorities may take the following measures:

（一）进入被调查的经营者的营业场所或者其他有关场所进行检查；

1. entering into the business premises or any other relevant places of the business operator under investigation for inspection;

（二）询问被调查的经营者、利害关系人或者其他有关单位或者个人，要求其说明有关情况；

2. Interrogating the business operators under investigation, interested parties, or any other related entities or individuals, and requiring them to explain the relevant situations;

（三）查阅、复制被调查的经营者、利害关系人或者其他有关单位或者个人的有关单证、协议、会计账簿、业务函电、电子数据等文件、资料；

(III) Consult or copy relevant documents, agreements, accounting books, business letters and telegrams, electronic data, and other documents and materials of the investigated undertakings, interested parties, and other relevant entities and individuals;

（四）查封、扣押相关证据；

(IV) seal up or detain the relevant evidence; and

（五）查询经营者的银行账户。

(V) Checking the operator's bank account.

采取前款规定的措施，应当向反垄断执法机构主要负责人书面报告，并经批准。

Where the measures stipulated in the preceding paragraph are adopted, a written report shall be submitted to the key person-in-charge of the anti-monopoly enforcement agency for approval.

第四十条   反垄断执法机构调查涉嫌垄断行为，执法人员不得少于二人，并应当出示执法证件。

Article 40 When the anti-monopoly enforcement agency investigates an alleged monopoly act, there shall be not less than two enforcement personnel and they shall present their enforcement credentials.

执法人员进行询问和调查，应当制作笔录，并由被询问人或者被调查人签字。

When law enforcement personnel are carrying out investigations and interrogations, they shall keep written records which shall be signed by the investigated or interrogated parties.

第四十一条   反垄断执法机构及其工作人员对执法过程中知悉的商业秘密负有保密义务。

Article 41 The anti-monopoly enforcement agency and its personnel shall be obligated to keep confidentiality of commercial secrets which have come to their knowledge in the enforcement process.

第四十二条   被调查的经营者、利害关系人或者其他有关单位或者个人应当配合反垄断执法机构依法履行职责，不得拒绝、阻碍反垄断执法机构的调查。

Article 42 The undertaking which is under investigation, the interested parties or any other relevant organisations or individuals shall cooperate with the anti-monopoly enforcement agency in their performance of duties pursuant to the law and shall not refuse or hinder the investigation of the anti-monopoly enforcement agency.

第四十三条   被调查的经营者、利害关系人有权陈述意见。反垄断执法机构应当对被调查的经营者、利害关系人提出的事实、理由和证据进行核实。

Article 43 The investigated operator and persons concerned are entitled to state their opinions. The anti-monopoly enforcement agency shall verify the facts, reason and evidence raised by the undertaking which is under investigation and the interested parties.

第四十四条   反垄断执法机构对涉嫌垄断行为调查核实后，认为构成垄断行为的，应当依法作出处理决定，并可以向社会公布。

Article 44 Where the anti- monopoly enforcement agency has verified the investigation of an alleged monopoly act and concludes that the act constitutes a monopoly act, it shall make a handling decision pursuant to the law and make a public announcement.

第四十五条   对反垄断执法机构调查的涉嫌垄断行为，被调查的经营者承诺在反垄断执法机构认可的期限内采取具体措施消除该行为后果的，反垄断执法机构可以决定中止调查。中止调查的决定应当载明被调查的经营者承诺的具体内容。

Article 45 Where, for the suspected monopolistic conduct under investigation by the anti-monopoly law enforcement authorities, the business operators under investigation undertake to take specific measures to eliminate the consequences of such conduct within a period prescribed by the anti-monopoly law enforcement authorities, the anti-monopoly law enforcement authorities may decide to suspend the investigation. A decision on suspension of investigation shall state the specific contents of undertakings made by the business operator subject to investigation.

反垄断执法机构决定中止调查的，应当对经营者履行承诺的情况进行监督。经营者履行承诺的，反垄断执法机构可以决定终止调查。

Where the anti-monopoly enforcement agency has decided to suspend investigation, it shall supervise performance of the undertaking by the undertaking. Where the undertaking has performed the undertaking, the anti-monopoly enforcement agency may decide to terminate the investigation.

有下列情形之一的，反垄断执法机构应当恢复调查：

The anti-monopoly authority shall resume the investigation under any of the following circumstances:

（一）经营者未履行承诺的；

1. The operator fails to perform its promise;

（二）作出中止调查决定所依据的事实发生重大变化的；

(II) significant changes have taken place to the facts based on which the decision on suspending the investigation was made;

（三）中止调查的决定是基于经营者提供的不完整或者不真实的信息作出的。

3. where the decision on suspension of investigation is made based on the incomplete or untrue information provided by the operator.

第七章 法律责任

Chapter 7 Legal Liabilities

第四十六条   经营者违反本法规定，达成并实施垄断协议的，由反垄断执法机构责令停止违法行为，没收违法所得，并处上一年度销售额百分之一以上百分之十以下的罚款；尚未实施所达成的垄断协议的，可以处五十万元以下的罚款。

Article 46 Where an undertaking has violated the provisions of this Law in entering into and implementing a monopoly agreement, the anti-monopoly enforcement agency shall order the undertaking to stop the illegal act, confiscate illegal income, and impose a fine ranging from 1% to 10% of the sales of the preceding year; where the monopoly agreement has been entered into but has not been implemented, a fine of not more than RMB500,000 may be imposed.

经营者主动向反垄断执法机构报告达成垄断协议的有关情况并提供重要证据的，反垄断执法机构可以酌情减轻或者免除对该经营者的处罚。

Where an undertaking has voluntarily reported the relevant information of conclusion of a monopoly agreement to the anti-monopoly enforcement agency and provided important evidence, the anti-monopoly enforcement agency may consider a mitigation or waiver of punishment for the said undertaking.

行业协会违反本法规定，组织本行业的经营者达成垄断协议的，反垄断执法机构可以处五十万元以下的罚款；情节严重的，社会团体登记管理机关可以依法撤销登记。

Where an industry association has violated the provisions of this Law in organising the undertakings in the industry to enter into a monopoly agreement, the anti-monopoly enforcement agency may impose a fine of not more than RMB500,000; where the case is serious, the registration and administrative authorities for social organisations may revoke registration pursuant to the law.

第四十七条   经营者违反本法规定，滥用市场支配地位的，由反垄断执法机构责令停止违法行为，没收违法所得，并处上一年度销售额百分之一以上百分之十以下的罚款。

Article 47 Where an undertaking has violated the provisions of this Law in abusing its dominant market position, the anti-monopoly enforcement agency shall order the undertaking to stop the illegal act and confiscate the illegal income; a fine ranging from 1% to 10% of the sales of the preceding year shall be imposed.

第四十八条   经营者违反本法规定实施集中的，由国务院反垄断执法机构责令停止实施集中、限期处分股份或者资产、限期转让营业以及采取其他必要措施恢复到集中前的状态，可以处五十万元以下的罚款。

Article 48 Where an undertaking has violated the provisions of this Law in implementing concentration, the anti-monopoly enforcement agency of the State Council shall order the undertaking to stop implementing concentration, to dispose of the shares or assets within a stipulated period, to transfer the business within a stipulated period and to adopt other necessary measures to reinstate the pre-concentration status; a fine of not more than RMB500,000 may be imposed.

第四十九条   对本法第四十六条、第四十七条、第四十八条规定的罚款，反垄断执法机构确定具体罚款数额时，应当考虑违法行为的性质、程度和持续的时间等因素。

Article 49 When the anti-monopoly enforcement agency determines the specific amount of the fines stipulated in Article 46, Article 47 and Article 48, it shall consider the nature of the illegal act, the extent and the duration etc.

第五十条   经营者实施垄断行为，给他人造成损失的，依法承担民事责任。

Article 50 A business operator which implements a monopoly act and causes others to suffer losses shall bear civil liability pursuant to the law.

第五十一条   行政机关和法律、法规授权的具有管理公共事务职能的组织滥用行政权力，实施排除、限制竞争行为的，由上级机关责令改正；对直接负责的主管人员和其他直接责任人员依法给予处分。反垄断执法机构可以向有关上级机关提出依法处理的建议。

Article 51 Where the administrative authorities and organisations which are empowered by the laws and regulations to carry out public administration functions abuse their administrative powers in elimination and restriction of competition, the higher-level authorities shall order them to make correction; the person (s) -in-charge who is/are directly accountable and other directly accountable personnel shall be punished pursuant to the law. The anti-monopoly enforcement agency may recommend actions to be taken pursuant to the law to the relevant higher-level authorities.

法律、行政法规对行政机关和法律、法规授权的具有管理公共事务职能的组织滥用行政权力实施排除、限制竞争行为的处理另有规定的，依照其规定。

Where the laws and administrative regulations provide otherwise on handling abuse of administrative powers by organisations which are empowered by the laws and regulations to carry out public administration functions to eliminate or restrict competition, such provisions shall prevail.

第五十二条   对反垄断执法机构依法实施的审查和调查，拒绝提供有关材料、信息，或者提供虚假材料、信息，或者隐匿、销毁、转移证据，或者有其他拒绝、阻碍调查行为的，由反垄断执法机构责令改正，对个人可以处二万元以下的罚款，对单位可以处二十万元以下的罚款；情节严重的，对个人处二万元以上十万元以下的罚款，对单位处二十万元以上一百万元以下的罚款；构成犯罪的，依法追究刑事责任。

Article 52 Persons who refuse to provide the relevant materials and information to the anti-monopoly enforcement agency for examination and investigation pursuant to the law or provide false materials and information or conceal, destroy or remove evidence or commit any other act to refuse or obstruct investigation shall be ordered by the anti-monopoly enforcement agency to make correction; a fine of not more than RMB20,000 may be imposed on individuals and a fine of not more than RMB200,000 may be imposed on organisations; where the case is serious, a fine ranging from RMB20,000 to RMB100,000 may be imposed on individuals and a fine ranging from RMB200,000 to RMB1 million may be imposed on organisations; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

第五十三条   对反垄断执法机构依据本法第二十八条、第二十九条作出的决定不服的，可以先依法申请行政复议；对行政复议决定不服的，可以依法提起行政诉讼。

Article 53 Persons who disagree with the decision of the anti-monopoly enforcement agency made pursuant to the provisions of Article 28 and Article 29 may apply for administrative review pursuant to the law; persons who disagree with the administrative review decision may file an administrative lawsuit pursuant to the law.

对反垄断执法机构作出的前款规定以外的决定不服的，可以依法申请行政复议或者提起行政诉讼。

Persons who disagree with a decision of the anti-monopoly enforcement agency other than a decision stipulated in the preceding paragraph may apply for administrative review or file an administrative lawsuit pursuant to the law.

第五十四条   反垄断执法机构工作人员滥用职权、玩忽职守、徇私舞弊或者泄露执法过程中知悉的商业秘密，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予处分。

Article 54 Where any functionary of the anti-monopoly authority abuses his/her power, neglects his/her duties, seeks private benefits through wrongful means or discloses trade secrets he/she has access to during the process of law enforcement, and a crime is constituted, he/she shall be subject to the criminal liabilities; where a crime is not constituted, he/she shall be imposed upon a sanction.

第八章 附 则

Chapter 8 Supplementary Provisions

第五十五条   经营者依照有关知识产权的法律、行政法规规定行使知识产权的行为，不适用本法；但是，经营者滥用知识产权，排除、限制竞争的行为，适用本法。

Article 55 This Law shall not apply to the exercise of intellectual property rights by business operators pursuant to the provisions of the relevant intellectual property rights laws and administrative regulations; however, this Law shall apply to business operators' abuse of intellectual property rights to exclude or restrict competition.

第五十六条   农业生产者及农村经济组织在农产品生产、加工、销售、运输、储存等经营活动中实施的联合或者协同行为，不适用本法。

Article 56 This Law shall not apply to the joint or concerted actions of agricultural producers and rural economic organizations in the business activities such as production, processing, sales, transportation and storage of agricultural products.

第五十七条   本法自2008年8月1日起施行。

Article 57 This Law shall go into effect as of August 1, 2008.