

# 17<sup>th</sup> EU–China Competition Week

## Implementation of the Fair Competition Review System

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# 1. Why do we need to establish a Fair Competition Review System?

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- ◆ A key to deepened economic reform
- ◆ A key step in establishing the fundamentals of competition policy
- ◆ An important measure to improve the socialist market economic system and promote high-quality development of the economy

Transformation to a market-oriented economy

- The key to making the market play a decisive role in resource allocation is to protect and strengthen market competition.

Administrative monopoly

- The issue of administrative monopoly is still prominent, hampering the national unified market and fair competition.

Inadequate supply by existing systems

Anti-monopoly law enforcement is case law enforcement and post-event regulation. It is difficult to comprehensively and effectively regulate administrative monopoly.

Establish a Fair Competition Review System

- To regulate and prevent anti-monopoly practices beforehand and strengthen coordination between competition policy and other economic policies

## 2. Implementation of the FCRS and problems encountered

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- ◆ Progress on implementation: The implementation is in full swing and document review is carried out in an orderly manner.
  - At the ministerial level: The 28 member units of the Inter-Ministerial Joint Meeting have implemented the Fair Competition Review System, and a total of 979 documents were reviewed in 2017.
  - At the local level: All provincial governments, most municipal governments and most county-level governments have implemented the Fair Competition Review System and established a joint conference system. In 2017, local government departments at all levels reviewed a total of 122,000 documents.

# Problems

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## Slow progress in some areas

- Some city and county government departments have not yet launched the system

## The scope of the review is not comprehensive enough

- Some government departments omitted some of the policy measures that should be reviewed.
- Some government departments limit the scope of examination to regulations and normative documents, and ignore other policy measures.

## The review work is not standardized

- Failure to follow the basic guidelines for review
- Did not form a clear written review conclusion, so the review did not leave any marks
- Did not solicit opinions from interested parties or publicly solicited opinions from the public (only seek advice from relevant departments)

## Review quality should be higher

- The policies that have been reviewed still have competition restrictions.
- Abuse of exceptions (inappropriate application of non-compliance, failure to fully explain the application of the exception)

# What causes these problems?

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## Concepts

The complete reversal of traditional management concepts and methods requires a process

## Understanding the system

There is a bias in understanding the content of the Fair Competition Review System

## Professionalism

Staff's competitive expertise and review capabilities need to be improved

## Accountability

Intensify accountability and responsibility to make the system more authoritarian

### 3. Case studies on the Fair Competition Review System

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Since 2017, the Inter-Ministerial Joint Meeting on the Fair Competition Review System has organized a comprehensive inspection covering all provinces (autonomous regions and municipalities), an inspection of a randomly selected area, and carried out inspections on the implementation of the system in various regions. Selected documents of selected government departments were sampled. According to the results, some documents fail to conform to the fair competition review criteria.

# Problems in Documents (1)

Document	Content	Standard	Explanation
《Measures for the Administration of Wholesale and Retail Licenses for Pesticide in a Special Economic Zone》	Pesticide retail operators should purchase pesticides from wholesale enterprises in this special economic zone. It is strictly forbidden for pesticide retailers and pesticide users to purchase pesticides from outside the special economic zone through online trading platforms.	Market access and exit criteria	Restrictions on purchasing goods from specific operators, and lacks superior law basis
《Notice of an autonomous region on adjusting the toll rate for toll bus and tour charter tolls》	On the basis of the current vehicle toll fee standard in the autonomous region, the toll bus and the tour chartered bus registered locally will be charged a lower toll rate.	Free flow standard of commodity elements	Preferential treatment for local enterprises only is equivalent to discriminatory policies for products of alien enterprises, which affects the entry of alien products into the local market.

## Problems in Documents (2)

Document	Content	Standards	Explanation
《Notice of the General Office of the People's Government of an Autonomous Region on the Implementation of a Plan for Promoting the Healthy Development of the Pharmaceutical Industry》	Special attention to the development of the pharmaceutical industry, supporting Alltech Pharmaceuticals, Datang Pharmaceuticals, Mengqi Pharmaceuticals, etc. to expand their production capacity and improve product quality	Affecting production and operation cost standards	It is suspected of violating “illegally given preferential policies to certain enterprises” as the document pointed out the name of supported companies
《Implementation Opinions of the General Office of the People's Government of an Autonomous Region on Promoting the Sustainable and Healthy Development of the Construction Industry》	Encouraging all types of construction industry associations to study and formulate service-based charging standards as <b>industry reference prices</b> .	Affecting production and business behavior standards	<ol style="list-style-type: none"> <li>1. To set a unified reference price for goods subject to market-adjusted prices, which is “intervening in the price of prices that should be set by the market”</li> <li>2. Need to explain whether the exception is applicable</li> </ol>

## 4.Outlook for the Fair Competition Review System

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The report of the 19th Party Congress points out:

To clean up and abolish regulations and practices that hinder unified markets and fair competition, break administrative monopolies, and stop market monopolies.

Premier Li Keqiang stressed at the national teleconference on the transformation of government functions (June 28, 2018):

All localities and departments must vigorously clean up and abolish regulations and practices that hinder the unified market and fair competition. In the future, policies should be developed to conduct fair competition review and evaluation, and preferential policies should be based on inclusive policies.

## Moving Forward

- ▶ Promote system to full coverage: Focus on slower cities and counties that lag behind in implementing the system to achieve full coverage of the system as soon as possible.
- ▶ Improve the top-level design of the system: Study and introduce supporting rules for accountability, third-party evaluation, etc.
- ▶ Improve the quality of the review: Increase training; conduct third-party evaluations; increase inspections on document reviews.
- ▶ Deepen the study of institutional theory: Cooperate with relevant departments, universities and research institutions to thoroughly study the issue of fair competition review in specific sectors. Deepen international cooperation in the field of fair competition review, learn from the experience and practices of EU state aid control and other relevant countries' competition evaluation systems.

**Thank  
you!**