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Research on Antitrust Compliance Incentives for Digital Economy Platform Enterprises

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Abstract

The development of the digital economy has brought opportunities, but also triggered many risks and challenges, and antitrust law enforcement and super-vision have become more complex. The construction of the antitrust compliance system of digital economy platform enterprises not only realizes the full process of antitrust supervision before, during and after the event, but also promotes enterprises to consciously comply with laws and regulations and optimize the business environment. The "Antitrust Compliance Guidelines for Operators" (2024) adds "Compliance Incentives" in the form of a special chapter to effec-tively resolve the problem of insufficient endogenous motivation for corporate compliance construction. At the same time, digital platform enterprises should further strengthen and improve the construction of the antitrust compliance system in accordance with the guidelines to maintain a fair and competitive market order.

Keywords

Digital economy; Antitrust; Compliance incentives

1. Introduction

With the continuous development of the Internet era, the digital economy has continued to deepen and gradually become an important driving force for the high-quality development of China's economy. The vigorous growth of digital economy platform enterprises is not only an engine for promoting the realization of Chinese-style modernization, but also brings many new challenges to the market competition environment. In order to meet the new opportunities and challenges brought about by this, the Party and the State have successively formulated and issued the "14th Five-Year Plan for Digital Economy Development" ([2021] No. 29), "Guiding Opinions on Strengthening Digital Government Construction" (Guofa [2022] No. 14) and other documents to carry out strategic planning and deployment. In recent years, increasingly powerful digital platform companies have frequently engaged in "self-preferential treatment", "big data killing old customers", "abuse of data advantages", "two-choice" and other behaviors that are detrimental to fair competition in the market, thereby causing disorder in the market competition order, damaging social public interests, and even causing an imbalance in social wealth. The problem of unfair competition caused by digital economy platform companies has become increasingly prominent, especially large platform companies have more favorable competitive advantages, become the dominant force in the Internet market, and form a monopoly position, thereby stifling the development of other small and medium-sized platform companies, while damaging the legitimate rights and interests of other operators and consumers. How to regulate the compliance behavior of digital economy platform companies has become a key and difficult task for antitrust law enforcement and supervision at home and abroad. On October 12, 2022, the European Union issued the Digital Markets Act, which effectively solved the problems of the scope of application of Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU), as well as ex post enforcement and operational difficulties. For example, it broke through the applicable conditions only for companies with market dominance, and also regulated the non-compliant behavior of companies that do not necessarily have a dominant position under existing EU competition law, while strengthening ex ante supervision. The EU Digital Markets Act promotes cross-border business within the European Union and improves the operation of the internal market by formulating rules to ensure the contestability and fairness of the digital sector market (especially for business users and consumers).

At present, China has also formulated and issued a series of antitrust rules specifically regulating competitive behavior in the platform economy. For example, the Anti-Monopoly Law revised in 2022 has added a lot of content regulating monopoly behavior in the platform economy to respond to practical needs. But overall, China's antitrust regulatory agencies still adopt a punitive-based regulatory model in dealing with the monopoly of digital platforms, and the self-compliance of platform companies has not yet played the expected role. In September 2020, the Anti-Monopoly Committee of the State Council issued the "Anti-Monopoly Compliance Guidelines for Operators". In response to the development of the digital economy, various localities have successively issued local guidelines for anti-monopoly compliance in the platform economy, such as the "Beijing Anti-Monopoly Compliance Guidelines for the Platform Economy" and the "Jiangxi Anti-Monopoly Compliance Guidelines for the Digital Economy", which emphasize the main responsibility of the platform, and China's anti-monopoly compliance work has been put on a new agenda. On April 26, 2024, the Anti-Monopoly and Anti-Unfair Competition Committee of the State Council issued the "Anti-Monopoly Compliance Guidelines for Operators", which added a special chapter on "Compliance Incentives", which has a very positive significance for further optimizing the fair competition business environment. Therefore, based on the revision of the "Antitrust Compliance Guidelines for Operators", this article aims to study the construction of an antitrust compliance incentive system in the field of digital economy platforms, so as to further guide and incentivize internal compliance management of platform companies, protect free and fair competition, and maintain market competition order.

2. The dilemma of antitrust compliance for digital economy platform companies is beginning to emerge

2.1. Opportunities and challenges for the development of digital economy platform enterprises

The report of the 20th CPC National Congress stressed the need to “accelerate the development of the digital economy, promote the deep integration of the digital economy and the real economy, and build a digital industry cluster with international competitiveness.”

Digital economy refers to a new economic form based on digital technology, with data as the core resource, network platform as the main carrier, innovation as the driving force, and efficiency and scale economy as the characteristics. It is highly open, interconnected, intelligent and flexible, and has brought huge opportunities and challenges to social and economic development. At present, the development of China's digital economy is unstoppable. According to the "Research Report on the Development of China's Digital Economy (2024)" released by the China Academy of Information and Communications Technology, the scale of China's digital economy will reach 53.9 trillion yuan in 2023, an increase of 3.7 trillion yuan over the previous year, and the proportion of GDP will increase to 42.8%, a nominal increase of 7.39% year-on-year.

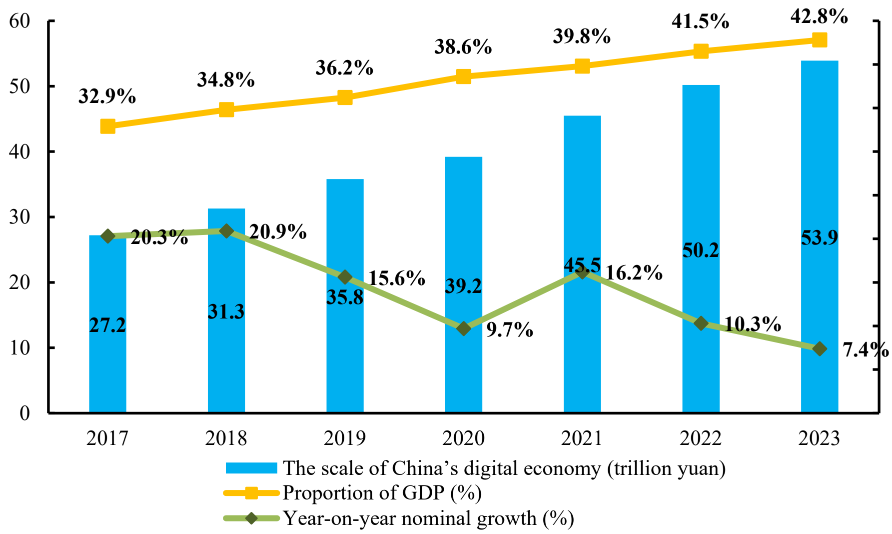

Figure 1. China’s digital economy scale, year-on-year nominal growth and GDP share from 2017 to 2023. (Data source: China Academy of Information and Communications Technology)

As the core carrier of the digital economy, platform enterprises are an important part of the digital economy. With the development of Internet technology, digital platform enterprises have developed rapidly, growing faster than traditional enterprises. For example, it took less than one year for Alibaba's market value to grow from US$10 billion to US$100 billion. From a domestic perspective, by the end of September 2024, there will be 107 platform enterprises in China with a value of more than US$1 billion, with a market size of US$2.2 trillion, an increase of 14.2% from the end of 2023. The average growth rate of the number of digital platforms is relatively fast. The faster the capital of an enterprise flows, the more lucrative the profit it obtains. This is also the main reason why capital is willing to abandon traditional enterprises and invest in Internet platform enterprises. When investors realize that the Internet platform field can make huge profits, the scale and speed of Internet platform enterprises will expand rapidly, and will continue to move towards monopoly. Therefore, while promoting economic development, digital platform enterprises will undoubtedly bring great challenges to fair competition in the market.

2.2. Current status of antitrust enforcement against digital economy platform companies

Given the scale of digital platform companies, China's antitrust enforcement agencies generally take severe punitive measures. Typical large-scale digital platforms in China, such as Alibaba, Meituan, and CNKI, have all been subject to huge fines. Among them, Alibaba and Meituan were fined RMB 18.228 billion (approximately US$2.8 billion) and RMB 3.442 billion respectively by the State Administration for Market Regulation for implementing the "choose one of two" policy on their e-commerce platforms, and required them to make comprehensive rectifications. CNKI (CNKI, the full name of China National Knowledge Infrastructure) is one of China's largest academic resource platforms and occupies an important position in China's academic publishing and information service market. It provides a large number of academic papers, journals, conference papers and other resources, and is widely used in academic research, teaching and corporate information services. However, CNKI's long-term dominance in the market has raised questions about its business practices, especially in terms of pricing strategies, copyright management and market competition. In 2021, the State Administration for Market Regulation launched an antitrust investigation into CNKI due to repeated accusations of unreasonable behavior in terms of charging standards and copyright fee payments. The focus of the investigation includes whether CNKI abuses its dominant market position and damages fair competition and consumer rights in the market through unfair high-price charges, forced bundling, exclusion or restriction of competition. In December 2022, China's State Administration for Market Regulation imposed a fine of RMB 87.6 million on CNKI. The fine was for CNKI's abuse of its dominant market position. In addition to the fine, CNKI was also required to take a series of rectification measures, including adjusting pricing strategies, improving copyright management, enhancing transparency and improving user services. However, it is regrettable that despite the "sky-high fine", monopolistic behaviors in the platform economy are still emerging in an endless stream, and platform operators are more likely to have a fluke mentality because their overall illegal costs are not high, and due to the complexity and concealment of Internet technology, it is difficult to identify monopolistic behaviors and the case discovery rate is low, making it difficult for digital platform companies to consciously comply with various antitrust laws and regulations in their business activities, and operators tend to do everything possible to increase their profits based on their profit-seeking nature. Therefore, this also highlights the complexity and challenges of antitrust law enforcement in the digital economy era.

3. Incentive needs for antitrust compliance of digital economy platform companies

According to the "Antitrust Compliance Guidelines for Operators", "compliance incentives" refer to the establishment of a compliance management system by an enterprise, which can become a consideration for antitrust law enforcement agencies to reduce or exempt administrative penalties when investigating and handling their monopolistic behavior.

In the new era of the Internet, guiding and encouraging digital platform companies to comply with antitrust regulations is a necessary measure for the construction of a fair competition system. The ultimate goal of antitrust law enforcement is to achieve the value goals of the antitrust law and ensure fair competition among market players, rather than to impose severe penalties and deterrence on illegal operators. Therefore, certain compliance incentive mechanisms can be used to promote platform companies to comply with competition rules.

On the one hand, the development and release of documents such as the Antitrust Compliance Guidelines can promote "pre-emptive prevention" and "in-process supervision" and make up for the shortcomings of the "ex post" punishment measures of antitrust law enforcement. This not only alleviates the pressure of law enforcement and saves antitrust law enforcement resources to a certain extent, but is also more conducive to the realization of antitrust supervision before, during and after the whole process. Especially under the new business model of platform economy, in view of the complex and changeable monopoly behavior and the difficulty of antitrust law enforcement, the antitrust compliance of digital economy platform enterprises has greatly improved the effectiveness of antitrust supervision. On the other hand, enterprises can also greatly reduce the risk of administrative penalties through their own compliance construction. Platform enterprises strengthen the construction of market integrity, self-regulation and supervision of the emergence of monopoly behavior, which is conducive to jointly creating a good business environment and maintaining a fair and competitive market order, thereby promoting stable economic development and the realization of overall social welfare.

It is worth noting that although compliance guidelines can certainly bring help and benefits to antitrust law enforcement and platform companies, there are still certain obstacles if companies are to voluntarily build antitrust compliance systems. At present, the antitrust compliance construction of digital platforms has not been effective, and platform companies are generally not enthusiastic about building antitrust compliance management systems. On the one hand, due to the high cost of antitrust compliance construction, platform companies are often "unwilling to spend" or "unable to spend" high costs to regulate their own behavior. On the other hand, companies often feel that they have paid high compliance management costs but have not been recognized by law enforcement agencies, which leads to insufficient internal motivation for antitrust compliance within the company, which will be detrimental to the realization of the value of the antitrust compliance system. Therefore, antitrust compliance incentives for digital economy platform companies are necessary.

In April 2024, the State Administration for Market Regulation issued the "Antitrust Compliance Guidelines for Operators", which confirmed the content of "compliance incentives" in the form of a special chapter, which undoubtedly demonstrated the importance of "compliance incentives" to the antitrust compliance system, indicating that the country has a positive attitude towards promoting enterprises to establish antitrust compliance systems and has provided certain policy support. At the same time, the specific revision of the guidelines also makes the antitrust compliance incentive system more operational. Against the background of the development of the digital economy and the construction of a unified national market, it has become an inevitable trend for antitrust supervision of digital economy platform companies to correctly understand the particularity of digital platforms and guide and encourage the construction and improvement of the antitrust compliance system of digital platforms.

4. Implementation of antitrust compliance incentive mechanism for digital economy platform enterprises

4.1. Relevant provisions of the Antitrust Compliance Guidelines for Operators

Judging from the newly revised "Antitrust Compliance Guidelines for Operators" in April 2024, the highlight of this revision of the guidelines is the addition of a special chapter on compliance incentives. First, Article 32 of the guidelines clarifies the compliance incentive mechanism, encourages operators to actively cultivate and advocate a fair competition culture, and establish and improve an antitrust compliance management system. When investigating and handling violations of the Antitrust Law, antitrust law enforcement agencies may consider the construction and implementation of the antitrust compliance management system of operators as appropriate. Secondly, Articles 33, 34, 35, and 36 of the guidelines respectively stipulate the specific application of four types of antitrust in the law enforcement process, namely, compliance incentives before investigation, compliance incentives in the commitment system, compliance incentives in the leniency system, and compliance incentives in the discretionary range of fines, and give different degrees of leniency or exemption of administrative penalties to qualified operators as appropriate. Finally, Article 37 of the guidelines clarifies that operators can apply to antitrust law enforcement agencies for compliance incentives in accordance with the provisions of this guideline, and stipulates the substantive review standards and the necessary probation period, while Article 38 specifically lists the circumstances in which compliance incentives are not given, and is accompanied by a bottom-line clause. Compared with the 2020 "Antitrust Compliance Guidelines for Operators", the provisions of the "Compliance Incentives" chapter of the 2024 version of the Guidelines have greatly improved the effectiveness of antitrust compliance enforcement, and embodied the organic combination of rigid law enforcement and flexible supervision. Through positive incentives, it not only realizes the full process of antitrust compliance work, but also helps promote enterprises to consciously build an internal compliance supervision system, abide by laws and regulations, give full play to the value of the antitrust compliance system, and maintain the harmony and stability of the market environment.

At the same time, it is also important to note that when an enterprise provides evidence to prove that it meets the applicable conditions for antitrust compliance incentives, the Guidelines (2024) stipulate that antitrust law enforcement agencies "may" decide whether to apply the antitrust compliance incentive mechanism, rather than "should" apply the antitrust compliance incentive mechanism. This reflects the prudent and cautious considerations of China's antitrust law enforcement, which is based on individual cases and specific circumstances. For example, when facing large-scale business entities such as super-large digital platform companies, due to their influence and their own particularities, a certain amount of discretion is reserved for the application of the guidelines, thereby making China's antitrust law enforcement more perfect.

4.2. The construction of antitrust compliance system for digital platform companies

Corporate compliance cannot be understood only as "obeying rules and laws", but should be an internal activity of full-process compliance management that enterprises consciously and voluntarily carry out. The purpose of "compliance incentives" in the 2024 version of the "Antitrust Compliance Guidelines for Operators" is to promote enterprises to consciously and voluntarily pay attention to and strengthen the construction of antitrust compliance systems, so as to optimize the business environment. So, regarding how digital economy platform companies can achieve normalized and sustainable antitrust compliance construction, the author believes that there are the following points:

First, platform companies should formulate special compliance charters and operating guidelines based on their own size, business operation conditions and capabilities, industry nature and other specific realities. This measure will not only help promote voluntary compliance and law-abidingness within the company, but also provide the possibility of lighter or reduced administrative penalties when antitrust enforcement agencies exercise discretion over the fine range. Specifically, companies should formulate detailed compliance charters and operating guidelines for different business segments and their characteristics to ensure the legality of the actions of each department. At the same time, compliance charters and operating guidelines should be regularly revised and updated in accordance with changes in laws and regulations and industry development trends to ensure their timeliness and applicability. In addition, an internal review mechanism should be established to regularly evaluate and review the implementation of the compliance charter to promptly detect and correct potential violations.

Secondly, platform companies should introduce third-party institutions and professionals to conduct regular risk assessments and corrections to prevent and promptly resolve potential antitrust risks. This measure can not only improve the compliance management level of enterprises, but also provide strong support for compliance incentives before law enforcement investigations and in the commitment system, thereby achieving the goal of exemption from penalties. Specific measures include: first, hiring third-party institutions or professionals to conduct regular risk assessments on the business operations of enterprises to identify potential antitrust risk points; second, based on the assessment results, formulate and implement corresponding corrective measures to ensure that the business operations of enterprises comply with the requirements of antitrust laws and regulations; third, submit regular compliance reports to antitrust law enforcement agencies, detailing the risk assessment and correction work of enterprises in order to seek lenient treatment.

Finally, platform companies should strengthen antitrust compliance training and supervision and reporting for employees. This measure mainly corresponds to the applicable conditions of the leniency system in the "Antitrust Compliance Guidelines for Operators" (2024), that is, operators take the initiative to report to antitrust law enforcement agencies on the behavior of reaching monopoly agreements and provide legal, true and effective evidence, so as to achieve a greater degree of penalty reduction. Specific implementation methods include: First, formulate a systematic antitrust compliance training plan, conduct regular training for all employees, especially management and business backbones, to enhance their legal awareness and compliance awareness. Second, establish and improve the internal supervision and reporting mechanism, encourage employees to report potential monopoly behavior, and formulate corresponding protection and incentive measures to safeguard the legitimate rights and interests of whistleblowers. Third, after discovering monopoly behavior, enterprises should take the initiative to report to antitrust law enforcement agencies and provide legal, true and effective evidence to strive for leniency and penalty reduction.

5. Conclusion

The business environment is crucial to economic development. To promote the continuous optimization of the business environment on the track of the rule of law, it is necessary to create a "rule of law business environment" and ensure free and fair competition among market players under the dual role of the government and the market. The Party Central Committee and the People's Government attach great importance to antitrust compliance work to prevent the disorderly expansion of capital. Against the background of increasingly fierce international competition and the growing development of the digital economy, the urgency and importance of antitrust compliance of digital economy platform enterprises are particularly prominent. At present, our country has successively formulated and issued relevant laws and regulations in response to monopoly issues in the platform economy field. Among them, the revision of the "Antitrust Compliance Guidelines for Operators" (2024) further demonstrates that antitrust compliance of digital platforms is increasingly valued. We must further strengthen antitrust compliance work, improve the antitrust compliance incentive mechanism of digital economy platform enterprises, and promote the sustained and healthy development of the market. This will not only help maintain fair competition in the market, protect consumer rights and interests, support the development of small and medium-sized enterprises, but also enhance the international competitiveness of China's digital economy platform enterprises.

References

[1] Zhang, S.W. (2024) Expansion and Application of Economic Law from the Perspective of Digital Economy. Journal of Shanxi University of Finance and Economics, 46(S1), 205-207.

[2] China Academy of Information and Communications Technology (CAICT). (2024) Research Report on the Development of China's Digital Economy (2024). https://www.caict.ac.cn/kxyj/qwfb/bps/202408/P020240830315324580655.pdf.

[3] Yin, N.N. and Liu, G.Z. (2024) The Biden Administration's Concept and Practice of Technological Innovation System in the Digital Era—A Study Focused on Anti-Monopoly of Digital Platforms. Nankai Journal (Philosophy and Social Sciences Edition), 3, 41-55.

[4] Liu, J. (2023) New Features of the Development of the Digital Platform Economy and the Governance of Monopoly Issues. Business Exhibition Economy, 24, 23-26.

[5] Yang, N.N. (2024) Corporate Anti-Monopoly Compliance System: Theoretical Basis and Institutional Construction. Journal of Henan University of Technology (Social Sciences Edition), 40(1), 115-122.

[6] Wang, X.L. (2024) Basic Framework of China's Fair Competition System under the Background of Optimizing the Business Environment. Tribune of Political Science and Law, 3, 103-113.

[7] Meng, Y.B. (2023) Evolution and Prospects of China's Anti-Monopoly Compliance System. China Market Regulation Research, 10, 57-61.

[8] Chen, R.H. (2024) Two Models for the Construction of Corporate Compliance Management Systems. Legal Review, 42(1), 15-28.

[9] Zhang, S.W. (2024) Promoting Economic Development on the Track of the Rule of Law. Legal Forum, 39(3), 18-29.