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Analysis on the Path of Anti monopoly Regulation in the Field of Platform Economy

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Abstract

In the context of the digital economy, the Internet platform economy has gradually matured and developed, gradually flooding the domestic and foreign markets with its intelligence and efficiency. Various platforms such as e-commerce platforms, social platforms, mobile payment platforms, etc. have been integrated into our lives. At the same time, competition in this field is also gradually intensifying. In order to gain competitive advantage, the abuse of market dominance such as big data killing on the platform and restricted trading in one of two options has become increasingly fierce, seriously damaging the network market environment and social public interests, as well as the legitimate rights and interests of consumers and businesses within the platform. This article is mainly based on the "Anti monopoly Law of the People's Republic of China", the "Anti monopoly Guide in the Field of Platform Economy", as well as relevant laws and regulations and relevant cases at home and abroad, providing a certain reference for the maintenance of order in the field of platform economy and the optimization of the platform market environment.

Keywords

Platform Economy; Anti Monololy; Market Dominant Position.

1. Introduction

1.1. Research Background

With the development of information technology such as big data and artificial intelligence, and the popularization of the Internet, the construction of Internet platform enterprises has rapidly risen, and they have already possessed a high market share and a high number of users. In recent years, many Internet platform companies have committed suspected monopolistic acts such as abusing their dominant market position. For example, in 2021, Alibaba was fined 18.228 billion yuan by the State Administration of Market Supervision and Administration for implementing "one out of two". In May of 2022, CNKI was also investigated by the State Administration of Market Supervision for its alleged monopoly. Similarly, Tencent, Mei Tuan, and others have been punished for monopolistic acts, which are platforms closely related to our lives. Such monopolistic acts not only damage the market environment, harm the interests of competitors in the market, but also damage the legitimate rights and interests of consumers. Therefore, they have received widespread attention from society.

1.2. Literature Review

Around this topic, scholars have conducted research from different aspects.

In the theoretical logic level of anti monopoly in the platform economy, Zhou Hongfang proposed that Marxist political economics is the theoretical guidance, Chinese excellent traditional culture is the theoretical nourishment, and the beneficial elements of Western economics are effective supplements. Anti monopoly in the platform economy field is the political necessity to achieve the essence of socialism, and is an inevitable choice to adhere to

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and improve the basic economic system of socialism with Chinese characteristics. At the construction path level, Zhou Hongfang believes that it is necessary to learn from global antitrust experience and scientifically construct based on China's basic national conditions, analyzing the construction path of antitrust in the platform economy from three aspects: the determination of regulatory bodies, the shaping of sanctions measures, and the construction of safeguard mechanisms.[1] In terms of analyzing the characteristics of monopolistic behavior in the platform economy, Jin Shanming combed the characteristics of several popular types of monopolistic behavior in current practice, such as "one out of two", "big data killing", "platform blocking", and summarized the characteristics of monopolistic behavior in the platform economy: Although the name of platform monopolistic behavior is relatively novel, it is not a new type of monopolistic behavior and it is not divorced from the institutional framework and basic principles of the current anti monopoly law. However, there are many factors to consider in the determination of illegal acts, resulting in increased uncertainty.[2]

At the legal application level, some scholars believe that the application of the Anti monopoly Law to the regulation of platform restricted transactions will hinder the development of the platform economy. For example, Guo Zongjie and Cui Maojie believe that the "Electronic Commerce Law" should be the highest priority choice for the obligee to achieve relief, followed by the "Anti Unfair Competition Law", and finally the "Anti monopoly Law", because the "Anti monopoly Law" is the most difficult to apply, and the cost of applying the law to achieve relief is also the greatest. [3]Wang Xiaoye analyzed the "two choice" behavior of anti monopoly from three aspects: defining the relevant market, identifying market power, and identifying competitive damage, and believed that special laws should be formulated for unfair trading behavior on e-commerce platforms. [4]Wang Xianlin believes that there is room for the application of Article 12 of the Anti Unfair Competition Law when restricted transactions in the field of e-commerce involve technical means, but more needs to be applied within the analytical framework of the Anti Monopoly Law.[5]

At the level of path analysis for applying the anti monopoly law to regulate, some economists and anti monopoly scholars have attempted to introduce bilateral market theory into the field of platform anti monopoly. Zheng Pengcheng and Long Sen analyzed the practical value and limitations of bilateral market theory in platform economy anti monopoly, and believed that the role of bilateral market theory in defining platform related markets and identifying platform abuse of market dominance behavior is limited, And put forward suggestions for improving the use of the bilateral market theory in the "Anti monopoly Guide to Platform Economy", arguing that network effects should not be used as a basis for defining the market related to the platform economy. It is necessary to clarify the basic status of demand substitution analysis and the value of SSNIP testing, and refine the causal relationship between network effects and the dominant position of the platform market; Wang Xianlin believes that the use of anti monopoly law for "one out of two" behavior in the field of e-commerce requires an analysis of market structure, competitive damage, and justifications; Zeng Xiong believes that in a bilateral market environment, new factors need to be considered in the definition of relevant markets, determination of market dominance, and evaluation of anti-competitive effects, and existing analytical tools need to be innovated.

2. Analysis of Monopolistic Behavior in the Field of Platform Economy

2.1. Relevant Market Definition

The relevant market refers to the range of commodities and regions where operators compete for specific commodities within a certain period of time, mainly including two elements: commodities and regions. Defining relevant markets is a key step in anti monopoly law enforcement, which directly affects or even determines the outcome of anti monopoly cases. To

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determine whether an operator is in a monopolistic or dominant market position, and whether market competition is excluded or restricted, it is necessary to define the relevant market as the premise. The types of business in the platform economy field are diverse and complex, and their competition is dynamic and multilateral. Compared to traditional markets, their related market definitions are more complex. Defining the relevant markets in the platform economy field scientifically, reasonably, and accurately is the basis for analyzing whether the platform implements monopolistic behavior. According to the "Anti monopoly Guidelines for the Platform Economy", when defining the relevant markets in the platform economy field, it is necessary to fully consider the characteristics of the platform economy and conduct specific analysis based on specific cases, that is, while complying with the general provisions of the Anti monopoly Law, it is also necessary to analyze the particularities of different platforms.

Firstly, analyze the definition of commodity markets related to the platform economy. Traditional relevant commodity markets should adopt different methods based on the specific circumstances of the case, such as conducting demand substitution analysis based on the price and use of the commodity, or conducting supply substitution analysis based on relevant factors. In the definition of commodity markets related to the platform field, demand substitution analysis can be carried out based on the platform's functions, number of users, etc. In addition, two or more markets can be defined based on platform multilateral commodities. For example, in the case of "Qihoo 360 v. Tencent Monopoly", the court pointed out that there is no direct competitive relationship between security software and instant messaging tools on the surface, but in essence, there is competition for users or traffic, so it is necessary to define multiple markets.

Secondly, analyze the definition of relevant regional markets in the platform economy field. The definition of relevant regional markets in the field of platform economy should analyze the actual regions where consumers choose products, the consumption habits of users, and the degree of competition in different regions, including both the Chinese market and the global market.

2.2. Definition of Abuse of Market Dominant Position in Platform Economy

Market dominance refers to the greater influence of operators on other operators in the relevant market. In the "Anti monopoly Guide on the Field of Platform Economy", the factors considered for the dominant position of the platform in the market are listed in combination with the characteristics of the platform economy, including the market share of the operator and relevant market competition conditions, the ability of the operator to control the market, the financial and technical conditions of the operator, and the degree of dependence of other operators on the operator in transactions, The difficulty of other operators entering relevant markets and other factors. Due to the difference between the platform field and the traditional market, the data that can be relied on to consider the above factors include data such as the number of platform users, user activity, transaction amount, transaction volume, sales volume, click volume, usage duration, or the proportion of other indicators in the relevant market.

The Anti monopoly Law lists seven types of abuse of market dominance by business operators, including monopolistic high prices and monopolistic low prices, predatory pricing, refusal to trade, exclusive trading, tying, and actions with unreasonable conditions attached, and differential treatment.

3. Challenges and Suggestions for Improving the Anti Monopoly Regulation Path in the Field of Platform Economy

In recent years, with the rise of platforms and the rapid development of the platform economy based on them, monopoly issues continue to emerge. China's regulation of the platform

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economy has received much attention, and research on strengthening anti monopoly supervision has gradually become an important topic. In China's anti monopoly activities in the platform economy, the anti monopoly law enforcement agency of the State Council actively promotes the anti monopoly supervision and law enforcement in the field of the platform economy, and promotes the issuance of the "Anti monopoly Guide for the Platform Economy"; The State Administration of Market Supervision and Administration has successively punished platform enterprises for abusing their dominant market position, effectively regulating monopolistic behavior in the field of platform economy. At the same time, China's anti monopoly law stipulates that the main responsibility for illegal monopolistic acts is administrative responsibility, which is the guarantee for the effective implementation of anti monopoly legislation and law enforcement. However, in the face of a complex platform economy, antitrust regulations cannot only impose administrative penalties. Instead, they should focus on education, supplemented by punishment, and encourage platform compliance and law-abiding through administrative guidance and other measures. For example, the General Administration of Market Supervision insists on using administrative guidance to promote platform compliance and law-abiding while imposing administrative penalties on Meituan, to safeguard a fair and healthy platform market environment. The platform economy is complex and changeable, and the degree of research on the theory and characteristics of the platform economy will undoubtedly affect the regulatory effect of platform monopoly behavior. The process of antitrust legislation, as well as the understanding and interpretation of existing relevant laws and regulations, are also very important in the context of rule of law. The improvement of anti monopoly regulatory rules in the platform economy, the use of economic theoretical research to optimize the regulatory path of monopoly behavior in the platform economy, and the strengthening of administrative guidance in the process of law enforcement will promote the development and exploration of anti monopoly regulatory paths in the field of the platform economy.

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