

A photograph of a hand holding a ping-pong paddle and another hand holding a ping-pong ball on a table. The image is overlaid with a dark purple, semi-transparent geometric shape that covers most of the frame. The background is a blurred indoor setting, likely a ping-pong table.

SLAUGHTER AND MAY

Competition law in China

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1. Introduction

- 1.1 In recent years, there have been significant developments and updates to the Chinese Anti-Monopoly Law (**AML**) and related regulatory regimes, in response to emerging and increasingly complex legal challenges driven by the rapidly evolving digital economy and changes in the global business environment.
- 1.2 This is most notably demonstrated by the major reform of the AML in August 2022, which provides for the main legal framework for a comprehensive system of competition law and principles which are set out in a number of implementing regulations and guidelines (many of which were released or revised following the AML amendment in 2022). Nevertheless, certain aspects of the AML remain open to broad interpretation, requiring reliance on the prevailing practice of the Chinese authorities, which may change from time to time.
- 1.3 At a high level, the AML prohibits monopolistic conduct, which can be divided into the following broad headings¹:
- Anti-competitive agreements between undertakings (see section 2 below);
 - Abuse of a dominant position (see sections 3.1 to 3.10 below);
 - Abuse of intellectual property rights (see sections 3.11 to 3.14 below); and
 - Mergers that may have the effect of eliminating or restricting competition (see section 4 below)².
- 1.4 In addition to the AML, it is worth noting that China has a separate Anti-Unfair Competition Law (**AUCL**) regime. Business practices which are not caught under the AML may nevertheless infringe the AUCL if they are considered to distort fair market competition or otherwise harm the interests of other business operators and consumers. The AUCL was recently amended in October 2025. Apart from new provisions which specifically apply to digital platforms, the revised AUCL also introduced a prohibition against “involution-style” competition, which echoes the Chinese government’s broader attempt to curb destructive price wars driven by relentless discounting.
- 1.5 The AML and the AUCL are both administered by the State Administration for Market Regulation and its municipal arms (collectively referred to as **SAMR** below), which have the power to investigate, issue fines and/or make other administrative orders against infringing parties. Civil liability (e.g. damages) may also ensue from an infringement, as private action is available under both regimes.

¹ In addition, the AML also prohibits the abuse of administrative powers to eliminate or restrict competition, which will not be covered in this publication.

² In the context of global M&A, the AML provides the framework for a mandatory, suspensory merger review for transactions meeting the relevant thresholds (see sections 4.2 to 4.5 below). A separate national security review by the National Development and Reform Commission may also be required under the Foreign Investment Law if the transaction involves certain “sensitive” sectors.

- 1.6 This publication offers an overview of the AML and the AUCL, and highlights SAMR's recent enforcement trends. It is important to note that these regulatory regimes are constantly evolving as SAMR continues to review and refine existing regulations and guidance. Businesses with operations in China should keep abreast of regulatory developments to ensure the ongoing compliance of their business practices. Further, businesses conducting global M&A transactions with a Chinese nexus will also benefit from a greater understanding of the merger control system in China, in order to fully assess the regulatory risks and the implications of SAMR's review process on the project timeline.

2. Monopolistic agreements between enterprises

Prohibition of Horizontal Monopolistic Agreements

- 2.1 The AML prohibits enterprises from entering into anti-competitive, or “monopolistic”, agreements. In this context, SAMR has clarified that “agreements” are not limited to written contracts and may also capture scenarios where undertakings are taking steps that are “substantially in concert”.³ Whether undertakings are acting in concert may be determined by factors such as parallel market behaviour and information exchange between the enterprises.
- 2.2 Similar to Article 101 of the Treaty on the Functioning of the European Union (TFEU), certain “horizontal” agreements (i.e. between enterprises competing in the same market) are illegal *per se* under the PRC regime and do not require any anti-competitive effect to be proved. These are expressly set out in the AML:
- Price-fixing
 - Output limitation
 - Market allocation
 - Restriction of technological innovation or development
 - Joint boycott
- 2.3 More guidance on the prohibition against horizontal monopolistic agreements is set out in the [Provisions on the Prohibition of Monopoly Agreements](#), as revised with effect from 1 February 2026. For example, in the context of the digital sector, the use of data, algorithms, technologies and platform rules, etc. by competitors to conclude or implement a monopolistic agreement is expressly prohibited.
- 2.4 Not only is direct participation in monopolistic agreements prohibited, it is also illegal to organise or provide substantive assistance for the making of such agreements (even without being a party to it). This includes the so-called “hub-and-spoke” cartel where, for example, a supplier assists its distributors in price-fixing or market allocation. Similarly, trade associations should be careful that they are not involved in organising or “facilitating” any monopolistic arrangements between their members.

Prohibition of Vertical Monopolistic Agreements

- 2.5 Like other major competition law regimes, the AML also prohibits agreements which have the *effect* of harming competition, including agreements between undertakings operating in different parts of the supply chain (i.e. vertical agreements).

³ See Article 5 of the Provisions on the Prohibition of Monopoly Agreements.

- 2.6 While vertical agreements are generally prohibited only if they produce anti-competitive effects, resale price maintenance (**RPM**, i.e. where the supplier specifies the price or profit margin at which the product may be resold at the downstream level) is *presumed* to be illegal under the AML, although such illegality may be rebutted if the parties can prove that the agreement does not have anti-competitive effects. This was an interesting development introduced in the 2022 amendment of the AML and was intended to resolve the inconsistency between the *per se* illegality approach which SAMR had historically adopted, and the Chinese courts' tendency to focus on the anti-competitive *effects* in RPM cases.
- 2.7 The revised Provisions on the Prohibition of Monopoly Agreements codify a “safe harbour” for certain vertical agreements.⁴ For RPM, the safe harbour is subject to both market share and turnover thresholds, whereas other vertical agreements are assessed by reference to market share thresholds only. The final thresholds, which took effect on 1 February 2026, are set out in Table 1 below.

Table 1: Safe harbour thresholds for vertical monopolistic agreements

Type of agreement	Market share threshold	Turnover threshold
RPM	For each year during the agreement, each party's market share is below 5% in the relevant market	Each party's relevant annual turnover is less than RMB 100 million
Other vertical agreements	For each year during the agreement, each party's market share is below 15% in the relevant market	No turnover threshold applies

Note: if the vertical agreement involves multiple “trading counterparties” to the business operator, the market shares (and turnover, for RPM agreements) of the counterparties should be aggregated as one “party” for the purposes of the above thresholds.

Exemptions

- 2.8 As with other major competition law regimes, even where an agreement falls outside the safe harbour or is otherwise found to be monopolistic, Article 20 of the AML provides for limited exemptions in certain circumstances. To rely on an exemption, the undertakings must demonstrate *all of* the following:
- The agreement has a qualifying purpose, such as to upgrade technology, research and development, improve product quality, reduce cost, improve efficiency, enhance the competitiveness of small and medium-sized enterprises (**SMEs**), maintain public welfare, or be for the purposes of international trade and foreign economic cooperation;

⁴ See Article 17 of the Provisions on the Prohibition of Monopoly Agreements.

- The agreement will not substantially restrict competition in the relevant market; and
- Consumers will receive a fair share of the resulting benefits.

3. Abuse of Dominant Market Position

Dominant position

- 3.1 The basic AML principles on abuse of dominance are comparable to Article 102 of the TFEU. Under the AML, a dominant market position is defined as having the ability to control the price, volume or other trading terms in the relevant market, or the ability to block or affect market entry by other undertakings.
- 3.2 The AML sets out a number of factors that should be considered in the dominance assessment. These include: the relevant undertaking's market shares and the competitiveness of the relevant market, its ability to control the sales or input market, its financial strength and technical resources, the extent to which other undertakings rely on the relevant undertaking and the ease of market entry.
- 3.3 In particular, and unlike its EU counterpart, the AML specifies certain market share thresholds which give rise to a presumption of dominance, as set out in Table 2 below. It is noteworthy that the AML recognises the concept of "collective dominance" under which abusive conduct may be attributed to more than one undertaking. This concept has been concretely applied in enforcement practice - particularly in the pharmaceutical sector. For example, in the abuse of dominance cases involving the [isoniazid active pharmaceutical ingredient \(API\) \(2017\)](#), [chlorphenamine API \(2018\)](#) and [calcium gluconate API \(2020\)](#), the relevant authorities assessed the combined market shares and overall market power of two or three companies operating in the relevant markets and concluded they collectively held a dominant market position.

Table 2: Market share thresholds in the AML for the presumption of dominance

Number of undertakings concerned	Combined share of the relevant market to create a presumption of dominance
1	≥ 50% (half or more)
2	≥ 66.7% (two-thirds or more)
3	≥ 75% (three-quarters or more)

Note: where two or more undertakings are concerned, the presumption does not apply to an undertaking which has a market share of less than 10%.

- 3.4 The AML (as confirmed by court decisions) clarifies that high market shares only give rise to a *presumption* of dominance which can be rebutted by the presence of other factors. For example, in [Qihoo v Tencent \(2014\)](#), Tencent Inc. was held not to have a dominant position despite having a market share exceeding 80% in the instant messaging (IM) service market. The Supreme People's Court considered a variety of other factors relating to the dynamics of the IM service market in reaching this conclusion, including the changing competitive

landscape of the IM service market in the PRC, Tencent's inability to control price, quantity or other trading terms in that market, the existence of credible competitors who can affect Tencent's leading position, and evidence of low barriers to entry.

- 3.5 The [Provisions on the Prohibition of Abuse of Market Dominance](#) offers more detailed guidance on the factors that SAMR may consider in its assessment of market dominance. For example, the ownership of intellectual property rights is relevant to the consideration of a company's "financial strength and technical conditions", and in the context of the platform economy, factors such as the ability to control digital traffic and use the relevant data may also be taken into consideration when determining if a company has market dominance.

Abuse

- 3.6 The AML is not intended to penalise enterprises for being successful. Instead, the regulatory focus is on "abusive" conduct, which can be categorised into two main types:

- *Exploitative abuses*: the dominant undertaking abuses its position by exploiting its customers or suppliers, for example, by selling at unfairly high prices or buying at unfairly low prices, or imposing discriminatory prices to customers under identical conditions without proper justification⁵; and
- *Exclusionary abuses*: the dominant undertaking abuses its position by excluding its competitors, for example by selling below cost, refusing to trade, imposing exclusivity requirements, and tying/bundling.

- 3.7 It should be noted that these behaviours are only considered abusive if they cannot be properly justified. The [Provisions on the Prohibition of Abuse of Market Dominance](#) provides further guidance on the general factors for determining what may constitute "proper justification" (e.g. the impact of the conduct on economic efficiency, innovation, public interest, etc.), and examples of such "proper justification" in the context of each specific type of conduct outlined above.

Application to the digital sector

- 3.8 Given the increased regulatory scrutiny of "Big Tech" in recent years, the AML now specifies that dominant companies must not engage in abusive conduct through the use of data, algorithms, technologies or platform rules. The most notable example of antitrust enforcement against "Big Tech" is the [Alibaba case \(April 2021\)](#), in which SAMR imposed a record-breaking fine of RMB 18.2 billion (approximately USD 2.66 billion) against Alibaba for abusing its dominant position in the Chinese online retail services market by imposing a "choose one of two" (二选一) requirement, a form of exclusive dealing, which effectively prohibited merchants from selling on rival online platforms. Shortly afterwards, SAMR imposed a fine of RMB 3.44 billion (approximately USD 503 million) on Meituan for its "choose one of two" (二选一) practice in the Chinese online food delivery services market in the [Meituan case \(October 2021\)](#). In December 2022, SAMR also [fined CNKI](#), a Chinese

⁵ Discriminatory pricing cases are relatively rare in China and, to date, have focused on exploitative discriminatory pricing against end customers rather than exclusionary discriminatory pricing to foreclose competitors.

online academic literature database, for abusing its market dominance by, among other things, requiring academic publishers to offer their papers exclusively on its database.

- 3.9 More recently, in February 2025, SAMR initiated a number of abuse of dominance investigations, including into [Google](#) (which currently appears to be suspended). In January 2026, SAMR initiated an [investigation into Ctrip](#) for suspected abuse of market dominance, which remains ongoing. While the specific grounds for the investigation have not been disclosed, it is understood to relate to Ctrip's automated price monitoring and adjustment tools, which Ctrip [announced](#) in March 2026 it would discontinue.
- 3.10 The [Provisions on the Prohibition of Abuse of Market Dominance](#) provide specific guidance for the digital sector. For example, they clarify that differences in the trading counterparties' transaction data, personal preferences or consumption habits should not amount to "different circumstances" and should be disregarded when determining whether the trading counterparties' conditions are identical. Moreover, special discounts for first-time users and randomised transactions determined under fair, reasonable and non-discriminatory (FRAND) platform rules may constitute "proper justifications" for imposing different trading terms.

Abuse of Intellectual Property Rights

- 3.11 The interplay between competition law and protection of intellectual property rights (IPRs) has, in recent years, been a focus of enforcement activity in many jurisdictions globally, including in China. The AML specifically prohibits the abuse of IPRs to exclude or restrict competition.
- 3.12 The basic principles are set out in the [Provisions on the Prohibition of the Abuse of Intellectual Property Rights to Exclude or Restrict Competition \(IPR Regulation\)](#), which covers the illegal use of IPRs in the context of anti-competitive agreements, abuse of market dominance and anti-competitive mergers. While the fact that a case involves IPRs would not normally change the basic legal framework for the antitrust analysis, it is often an important factor that warrants special consideration.
- 3.13 In particular, in the context of abuse of dominance cases, the IPR Regulation sets out certain abusive conduct that is specific to IPRs licensing (including patent pools), such as charging unfairly high licence fees, refusing to licence the IPRs without justification, compelling licensees to take a bundle of unnecessary IPRs, imposing an exclusive grant back obligation on the licensee and prohibiting the licensee from challenging the validity of the IPRs.
- 3.14 While the IPR Regulation sets out a high-level legal framework regarding standard essential patents (SEPs), SAMR issued a separate set of [Anti-Monopoly Guidelines for the Field of Standard Essential Patents](#) in November 2024, following public consultation in June 2023. These non-binding guidelines are in line with a broader trend of moving towards SEPs

licensing regulation⁶. They place an emphasis on *ex ante* supervision and compliance by relevant stakeholders and specify certain obligations for SEPs holders, such as committing to licensing the SEPs on FRAND terms.

⁶ For example, the EU had proposed a new SEP regulation, which was approved by the European Parliament in February 2024, though ultimately withdrawn by the European Commission in 2025.

4. Merger control

- 4.1 China has a well-established merger control regime which is enshrined in the AML. A “concentration of undertakings” (defined below) that meets the designated thresholds must be notified to SAMR and must not be implemented without SAMR’s prior approval, or the parties will be liable for what is commonly known as “gun-jumping”. The most important elements of the Chinese merger control regime are highlighted below.

Notifiable transactions

- 4.2 The [Provisions on the Review of Concentrations of Undertakings \(Merger Provisions\)](#) provides that a “concentration of undertakings” refers to a merger or an acquisition of control through shares, assets, contractual rights or other means.
- 4.3 Similar to the [EU Merger Regulation \(EUMR\)](#), the AML adopts a broad concept of “control” which requires the consideration of multiple factors. For example, in addition to the shareholders’ right to vote and appoint senior management, the Merger Provisions provides that the historical attendance and voting patterns of the shareholders and directors are also relevant to the question of control.
- 4.4 The merger notification obligation also applies to joint ventures, where two or more undertakings acquire joint control. It is important to bear in mind that, unlike the EU, SAMR does not distinguish between full-function and non-full-function joint ventures⁷. Close-knit alliances may therefore also attract regulatory scrutiny under merger control in the PRC (e.g. the proposed P3 alliance between AP. Møller-Maersk A/S, Mediterranean Shipping Company S.A. and CMA-CGM S.A. in 2014, which was [reviewed and prohibited](#) in China, but was not notifiable under the EUMR because it was not full-function).

Notification thresholds

- 4.5 A concentration of undertakings is required to be notified to SAMR if:
- (A) Each of at least two of the undertakings involved has Chinese turnover exceeding RMB 800 million (approximately USD 117 million); and
 - (B) Either of the following thresholds is met:
 - The aggregate worldwide turnover of the undertakings involved exceeds RMB 12 billion (approximately USD 1.75 billion); or

⁷ Under Article 3(4) EUMR, a full-function joint venture is a joint venture capable of performing, on a lasting basis, all the functions of an autonomous economic entity.

- The aggregate Chinese turnover of the undertakings involved exceeds RMB 4 billion (approximately USD 584 million).

4.6 Since the 2022 amendment of the AML, SAMR has more frequently exercised the power to call in transactions which are *below* these turnover thresholds but nevertheless raise competition concerns. Such catch-all power is expected to capture “killer acquisitions”⁸, i.e. market incumbents acquiring a nascent rival to stifle future competition, which have received increased attention in recent years, in particular in the digital space. In 2025 and early 2026, the more prominent call-in cases clustered around certain sensitive sectors, including semiconductor design (*Synopsys/Ansys*), pharmaceutical supply chains (*Yongtong/Huatai*), cybersecurity products (*Keysight/Spirent*), chipsets (*Qualcomm/Autotalks*) and local utilities infrastructure (*Foshan bottled LPG joint venture*).

Review timeline and procedure

4.7 Detailed guidance on the requirements and process of SAMR’s merger review is provided in the [Specification for Notification of Concentrations of Undertakings](#), which took effect in October 2025. This document is intended to offer an “all-in-one” guidance framework which businesses can easily refer to when navigating the Chinese merger control process, from assessing the notification obligations and the applicable procedure (i.e. the standard or simplified procedure), preparing the filing materials based on the documentary requirements, to submitting the filing and completing the review process. Some of the key points are summarised below.

4.8 Upon receiving a notification, SAMR may raise some initial questions or requests with the notifying parties before formally accepting the notification. This process can take several months. The statutory review timetable runs from the date of formal acceptance. Most transactions that are filed under the simplified procedure (see paragraph below) are usually cleared in Phase 1, which is the initial 30 calendar days from formal acceptance. More complex transactions, including those requiring substantive engagement with SAMR or potential remedies discussions, will normally proceed to Phase 2 (a further 90 calendar days) and possibly Phase 3 (a further 60 calendar days), in specified circumstances where (i) the parties have submitted inaccurate information, (ii) there are significant changes to the circumstances of the transaction, or (iii) if the parties agree. In addition, SAMR has the power to “stop the clock” in certain circumstances (e.g. if the parties fail to provide any requested document, or if there are new circumstances which have a significant impact on the transaction). In practice, SAMR has wide discretion in exercising this power, particularly in complex cases involving significant and/or substantive issues. The simplified procedure is available for transactions that meet one of the following requirements and thus are unlikely to raise competition concerns:

- (i) transactions where the parties have a combined share of less than 15% in a horizontal overlap market, or where each party has less than 25% of any vertical market; if there is

⁸ Interestingly, in the [consultation draft](#) of Rules of the State Council on Notification Thresholds for Concentration of Undertakings, a specific threshold intended for “killer acquisitions” was proposed. However, this was not included in the [final version](#) of the rules published in January 2024, although SAMR can still rely on the catch-all power to call in such deals proactively for review.

no horizontal overlap or vertical relationship, then none of the parties has 25% or more of any market relating to the transaction;

- (ii) transactions involving the establishment of a joint venture outside of China that does not engage in economic activities in China;
- (iii) transactions involving the acquisition of shares or assets of an overseas enterprise that does not engage in economic activities in China; or
- (iv) transactions whereby a joint venture jointly controlled by two or more undertakings comes to be controlled by one or more of those undertakings as a result of the concentration.

4.9 The vast majority of Chinese merger filings fall under the simplified procedure. In 2025, according to the [statistics](#) released by SAMR, it concluded a total of 706 merger review cases, representing a year-on-year increase of approximately 9.8%. Of these, 614 cases (87%) were reviewed under the simplified procedure. With only five cases subject to remedies⁹ and a single prohibition,¹⁰ the figures underscore SAMR's continued focus on procedural efficiency for transactions that do not raise substantive competition concerns.

Horizontal Merger Guidelines

- 4.10 In December 2024, SAMR released the [Guidelines for the Review of Horizontal Concentration of Undertakings \(Horizontal Guidelines\)](#), which is the first set of horizontal merger guidelines since the enactment of the Chinese merger control regime in 2008.
- 4.11 Like the [Horizontal Merger Guidelines](#) issued by the European Commission (EC) ([EC Guidelines](#)), the Horizontal Guidelines aim to provide detailed guidance as to how SAMR will assess horizontal M&A transactions. This is the first time SAMR has specified indicative thresholds based on market share and market concentration levels, which are more prescriptive compared to the EC Guidelines.
- 4.12 For example, while the EC Guidelines indicate that a transaction is generally presumed to be compatible with the common market and thus unlikely to raise competition concerns if the parties' combined market share is below 25%, the Horizontal Guidelines adopt a more granular set of market share "bands", as summarised in Table 3 below.

⁹ Agribusiness ([Bunge/Viterra](#)), air cargo ([ANA/Nippon Cargo](#)), semiconductor design software ([Synopsys/Ansys](#)), cybersecurity and network testing ([Keysight/Spirent](#)), lithium mining (the [Codelco/SQM joint venture](#)).

¹⁰ Pharmaceutical ([Yongtong/Huatai](#)).

Table 3: Indicative market share bands under SAMR’s Horizontal Guidelines

	Combined market share				
	<15%	15-25%	>25%	>35%	>50%
China	Transaction presumed not to have anti-competitive effects	Transaction generally considered not to have anti-competitive effects	Transaction will need to be closely scrutinised	SAMR tends to consider that the transaction will give rise to anti-competitive effects	Transaction presumed to have anti-competitive effects
EU	Transaction presumed to be compatible with the common market (i.e. not to give rise to significant competition concerns)		Unspecified - case-by-case analysis required		

4.13 Market concentration is also considered an important indicator of competition in both regimes and is commonly measured by the Herfindahl-Hirschman Index (HHI). Table 4 below compares how SAMR and the EC assess the implications of HHI levels in the context of merger review.

Table 4: Comparison of indicative market concentration thresholds (HHI)

SAMR guidance		EC guidance
Indicative risk level	HHI levels	
Transaction generally considered not to have anti-competitive effects	<ul style="list-style-type: none"> Post-merger HHI <1000; or ΔHHI <100 	Initial indicator of the absence of competition concerns: <ul style="list-style-type: none"> Post-merger HHI: 1000-2000, and ΔHHI <250; or Post-merger HHI >2000, and ΔHHI <150
Transaction will need to be closely scrutinised	<ul style="list-style-type: none"> Post-merger HHI: 1000-1800; and ΔHHI >100 	
Transaction presumed to have anti-competitive effects	<ul style="list-style-type: none"> Post-merger HHI >1800; and ΔHHI >200 	

4.14 In addition to assessing these quantitative factors, SAMR will also take into account a range of other considerations in its merger review process, such as potential efficiencies and public interest (including employment, interests of SMEs and environmental protection). For mergers involving digital platforms, SAMR will also consider the effects of specific factors on competition, such as platform rules, data and algorithms.

4.15 Notably, the Horizontal Guidelines stipulate that the potential impact of government subsidies on competition is one of the relevant factors in SAMR’s assessment. Instead of establishing a separate regime targeting foreign government subsidies like the EC did under the [Foreign Subsidies Regulation](#) (which came into effect in mid-2023), the Chinese government chose to include the review of government subsidies (domestic *and* foreign) as part of SAMR’s merger review framework, which may signal a preference for a more flexible and holistic approach to regulatory oversight of increasingly complex corporate activities.

Non-Horizontal Merger Guidelines

- 4.16 The [Guidelines for the Review of Non-Horizontal Concentration of Undertakings \(Non-Horizontal Guidelines\)](#) were published in December 2025, which focus on vertical mergers (i.e. mergers involving parties active in different levels of the supply chain) and conglomerate mergers (focusing on mergers involving parties active in neighbouring or complementary markets).
- 4.17 Similar to the Horizontal Guidelines, the Non-Horizontal Guidelines propose market share thresholds for an indicative competition risk analysis. A comparison with the EC’s non-horizontal merger guidelines is set out in Table 5 below:

Table 5: Comparison of indicative market share thresholds for non-horizontal mergers

	Parties’ market shares in each relevant market:	One (or more) party’s market share in any relevant market:		
	<25%	25-35%	>35%	>50%
China	Transaction presumed not to have anti-competitive effects	Transaction has a low likelihood of raising anti-competitive concerns, subject to a case-by-case assessment	Transaction will need to be closely scrutinised	Transaction presumed to have potential anti-competitive effects
EU	Post-merger entity in each relevant market: <30%	Post-merger entity in each relevant market: >30%		
	Initial indicator of the absence of competition concerns, if post-merger HHI is below 2000	Unspecified - case-by-case analysis required		

- 4.18 Specifically, the Non-Horizontal Guidelines seek to address competition issues that commonly arise in mergers involving digital platforms. For example, they specify that input foreclosure in a vertical merger may take the form of restricting IP licensing, slowing down product upgrades, reducing interoperability, limiting data access, withdrawing application programming interfaces and blocking supply channels, etc. The Non-Horizontal Guidelines also identify other important issues in the context of vertical mergers, such as access to competitively sensitive information of upstream/downstream competitors, and the possibility of self-preferencing in the upstream or downstream market post-merger.
- 4.19 The Non-Horizontal Guidelines also recognise that transactions involving digital platforms operating in neighbouring markets may give rise to ecosystem-based concerns, which may strengthen network effects and increase user “stickiness”. The reference to an “ecosystem-based” theory of harm appears to mirror the EC’s approach in reviewing mergers involving digital platforms (e.g. its prohibition of the [Booking/eTraveli merger](#) in September 2023).

Remedies

- 4.20 If SAMR considers a transaction to have an adverse effect on competition, the parties may submit a remedies proposal to SAMR. Typically, it will take several rounds of feedback (from SAMR and third parties) and discussions, which can take a number of months. If the final remedies proposal is accepted by SAMR, it will issue a conditional clearance for the transaction. In some rare cases where the parties cannot reach an agreement with SAMR on the remedies proposal, the transaction may be prohibited.
- 4.21 Unlike other jurisdictions (e.g. EU) which have a strong preference for structural remedies (e.g. divestment), SAMR adopts a flexible approach and often imposes behavioural remedies or a combination of both structural and behavioural. Common behavioural remedies include: price controls, supply commitment on FRAND terms, commitment to maintain product or service quality, prohibition of anti-competitive behaviours (e.g. abusive tying or bundling, coercing customers into exclusive supply agreements), and limitation of information sharing between the parties.¹¹ These remedies often involve a duration of five to ten years, during which a monitoring trustee is typically appointed to ensure compliance.
- 4.22 The Merger Provisions also provide some specific examples of remedies which are applicable in the context of digital mergers, including the divestment of IP or data, commitment to open up or license key technologies, terminate exclusive dealing agreements, maintain independent operation, modify platform rules or algorithms, and/or maintain the level of interoperability.

Appeal mechanism

- 4.23 While the regime provides for the possibility of appeal against SAMR's merger decisions, the appeal mechanism is rarely invoked in practice.
- 4.24 The first (and to date, the only) judicial challenge of a merger decision since the implementation of the AML in 2008 was lodged by Beijing Tobishi Pharmaceutical, and was [dismissed](#) in December 2024 by the Beijing Intellectual Property Court.¹² The court's judgment, which upheld SAMR's decision, included various useful statements in respect of SAMR's role in reviewing merger, including that:
- (A) The outright prohibition of a merger should not be seen as a compulsory or preferred approach. Instead, any prohibition decision by SAMR should be considered "exceptional intervention";
 - (B) SAMR has the power to conditionally approve mergers and is responsible for evaluating the effectiveness of the proposed remedies to ensure that they

¹¹ In some recent conditional clearance cases, certain remedies were redacted from SAMR's public decisions (e.g. [Keysight/Spirent](#), [Bunge/Viterra](#), [Ansys/Synopsys](#)).

¹² Tobishi was the target of the transaction in question, which was [conditionally approved](#) by SAMR in September 2023. Tobishi first applied to SAMR for an administrative re-consideration pursuant to Article 65 of the AML, but SAMR [upheld](#) its initial decision in February 2024, which led Tobishi to file an administrative lawsuit with the Court in March 2024.

adequately address any potential anti-competitive effects the transaction may have on competition;

- (C) The court affirmed SAMR's authority to review and impose remedies in voluntary filings of transactions that fall below the jurisdictional thresholds under the AML; and
- (D) SAMR is not obliged to conduct a substantive assessment of the validity of the merger agreement.

Penalty for “gun-jumping”

- 4.25 While the maximum fines for a failure to comply with a filing obligation are stipulated in the AML (see section 6 below), SAMR issued the trial rules on [Benchmarks for Discretion of Administrative Penalties for Illegal Implementation of Concentrations \(Penalties Benchmarks\)](#) in February 2025.
- 4.26 In particular, while Article 58 of the AML stipulates that the fine for gun-jumping for transactions that do not raise anti-competitive effects is up to RMB 5 million (approximately USD 730,000), the Penalties Benchmarks provide further guidance by identifying the starting point for fines in different circumstances. A summary of the starting level of fines is as follows:
- (A) Cases where an investigation has revealed no anti-competitive effects, at RMB 2.5 million (approximately USD 365,000);
 - (B) Cases with aggravating factors (e.g. obstructing or not cooperating with enforcement, re-offending within a year, concealing or transferring evidence), at RMB 4 million (approximately USD 584,000); and
 - (C) Cases with mitigating factors (e.g. taking proactive steps to eliminate or mitigate consequences from the illegal concentration, proactively reporting its illegal concentration before SAMR obtains evidence), at RMB 1 million (approximately USD 146,000).

Once the starting level has been determined, SAMR will then further assess various factors specific to the case to adjust the fine accordingly.

- 4.27 Other specified circumstances (e.g. the entity actively rectifying the illegal concentration and developing a valid management system, first-time offender, actively cooperating with SAMR and providing important evidence to SAMR) may each trigger a 10% reduction in the fine imposed, although the final penalty cannot be less than 40% of the initial starting level.
- 4.28 The Penalties Benchmarks also refer to two situations where SAMR may choose not to impose administrative penalties, namely:

- (A) A first-time offender who proactively reports the breach to SAMR and takes action to restore to the pre-concentration status (which could potentially be interpreted as unwinding the transaction); and
- (B) The breach was caused by an unforeseeable, unavoidable and insurmountable situation despite the parties' exercise of due diligence.

4.29 Since its introduction, the Penalties Benchmarks have already been applied in SAMR's enforcement practice. In particular, in *Zhejiang Provincial HR joint venture* (December 2025) and *Huaxin/Walsin Group* (January 2026), SAMR expressly took into account the mitigating factors set out in the Penalties Benchmarks when determining the level of fine. These cases illustrate how cooperation and remedial steps may influence penalty exposure. Undertakings under investigation should refer to the Penalties Benchmarks when formulating their response strategies.

4.30 It is worth noting that the Penalties Benchmarks do not currently provide guidance on SAMR's fining approach where an illegal concentration gives rise to competition concerns. The AML permits fines of up to 10% of the undertaking's sales revenue in the preceding year, with the potential for an uplift of two to five times the base fine for particularly serious violations (pursuant to Article 63 of the AML).

5. Anti-Unfair Competition Law

- 5.1 In addition to the AML regime, the PRC legal system also governs business practices that are considered “unfair” under the AUCL regime. Unlike abuse of dominance, an infringement under the AUCL does not require the wrongdoer to possess a market dominant position, thus significantly lowering the threshold (at least in theory) for the AUCL to bite. The [revised AUCL](#) took effect in October 2025 and strengthened the regulatory toolkit for addressing conduct arising in the digital economy, alongside higher penalties for certain infringements.

Prohibited business practices and increased enforcement exposure

- 5.2 The revised AUCL retains and refines the core categories of prohibited conduct that have long featured in enforcement, such as acts causing confusion or passing off, obtaining a competitive advantage through bribery, and false or misleading advertising (whether to promote one’s business or harm a competitor’s reputation). It also strengthens protections relating to the misappropriation of trade secrets and increases penalties for a range of violations, including new offences targeted at online and platform related practices, with higher fine ceilings in some areas.
- 5.3 As reflected in [typical AUCL cases](#) published by the Supreme People’s Court, enforcement has covered a broad range of market participants, including online platforms, technology service providers and traditional businesses, and has targeted conduct such as algorithm-driven interference, data scraping, imitation and passing-off, misappropriation of technical or trade secrets, fake transactions and traffic manipulation, misleading promotions and commercial disparagement.

Digital economy focus and platform obligations

- 5.4 A key theme of the revised AUCL is enhanced regulation of unfair competition in the digital economy, particularly conduct facilitated by the use of data, algorithms, technology and platform rules. It also seeks to curb “involution-style” competition, for example by prohibiting platform operators from forcing merchants to sell below cost, and to address destructive price wars and excessive discounting pressures on merchants. The revised AUCL also tightens scrutiny of online practices such as the misuse of data and the manipulation of platform mechanisms.
- 5.5 “Involution-style” competition has long been a regulatory concern of SAMR. In March 2026, the Beijing municipal arm of SAMR [summoned 12 online platforms](#) over practices including unilaterally adjusting prices without merchants’ consent, compelling participation in promotional activities, and deploying automated tools to track and undercut competitors’ prices in real time. Administrative warning letters were issued requiring rectification. In the same month, SAMR [signalled enhanced enforcement](#) under the revised AUCL, flagging concerns over platforms using search rankings, traffic restrictions and product delistings to force merchants to participate in price wars.

- 5.6 The revised AUCL also imposes more explicit, compliance-oriented obligations on platform operators. Platforms are expected to incorporate fair competition rules into their service agreements and transaction policies, establish mechanisms for reporting and resolving unfair competition disputes, and guide merchants to compete fairly and lawfully. Where operators identify unfair competition practices on their platforms, they are expected to take necessary measures, keep relevant records, and report the relevant misconduct.

Other notable features of the revised AUCL

- 5.7 The revised AUCL introduces a new prohibition on “the abuse of an advantageous position”, aimed at protecting SMEs. In broad terms, this provision targets large enterprises or business operators with an advantageous position in capital, technology, transaction channels, industry influence and similar factors, and restricts them from imposing obviously unreasonable payment periods, payment methods or other trading conditions on SMEs, including by delaying payment for goods, projects or services provided by SMEs. This may provide an additional basis for enforcement in circumstances where an abuse of dominance case under the AML would be difficult to sustain, but the imbalance in bargaining power is nevertheless clear.
- 5.8 The revised AUCL also introduces extraterritorial reach. Unfair competition practices occurring outside China may fall within scope where they disrupt competition in the domestic market or harm the legitimate interests of domestic operators or consumers, meaning that overseas conduct can still attract AUCL scrutiny where it has effects in China. This brings the AUCL more closely into line with the approach under the AML.

Related efforts in the online context

- 5.9 The revised AUCL is complemented by a set of more detailed online specific rules. For example, the [Interim Regulation on Unfair Competition in the Cyberspace](#), which took effect in September 2024, addresses unfair business practices that have become increasingly common in online marketplaces in recent years. It prohibits misleading marketing activities through live streaming, “hot search” style promotion, fabricated transaction data or user reviews, etc. The use of “big data” and algorithms to influence user choice, as well as “personalised pricing”, are also prohibited.
- 5.10 Separately, SAMR published the [Guidelines on Anti-Monopoly Compliance for Internet Platforms](#) in January 2026. This is intended as a non-binding guidance to help platform operators design and run antitrust compliance programmes that can identify, assess and manage AML risks across the business. It sets out core compliance principles and expectations, and highlights risk areas frequently featured in enforcement, including algorithmic collusion, exchange of competitively sensitive information between competing platforms, and certain platform practices that may raise concerns under the abuse of dominance framework.
- 5.11 More recently, the [Rules on Pricing Conduct of Internet Platforms](#) came into effect in April 2026, focusing on regulating pricing conduct by both platforms and businesses. It crystallises SAMR’s long-standing concerns over forced price parity, “auto-matching” pricing arrangements, and algorithmic discrimination into a legally binding framework. This conduct-based approach is expected to lower SAMR’s enforcement threshold, as it does not

require proof of market dominance, a monopoly agreement, or evidence of anticompetitive effects.

6. Consequences of infringement

6.1 SAMR oversees the administration and enforcement of the AML and the AUCL, and has a wide range of investigative powers under these regimes. In addition, SAMR has the power to impose pecuniary and non-pecuniary penalties in case of an infringement.

Penalty for AML infringements

6.2 In case of an infringement, SAMR may order the wrongdoer to cease the infringement and pay a fine. The maximum fines under the AML are set out in Table 6 below.

6.3 It should be noted that it is an offence under the AML to obstruct SAMR's investigation and/or destroy evidence, or to provide false information to SAMR, which may also be penalised by a fine.

Table 6: Maximum fines for AML infringements

	Amended AML
Prohibition against anti-competitive agreements	
(a) Agreement reached	10% turnover in preceding year
(b) Agreement reached, but party had no turnover in the preceding year	RMB 5 million (approximately USD 730,000)
(c) Agreement reached, without implementation	RMB 3 million (approximately USD 438,000)
(d) Organising or assisting others to reach Anti-competitive Agreement	Same penalties apply as if the organiser was a party to the agreement
(e) Agreement reached via trade association	RMB 3 million (approximately USD 438,000)
(f) Personal liability for reaching agreement	RMB 1 million (approximately USD 146,000)
Prohibition against abuse of market dominance	
(a) Abuse of dominant market position	10% turnover in preceding year
Merger control	
(a) Failure to notify reportable transaction that has anti-competitive effects	10% turnover in preceding year
(b) Failure to notify reportable transaction that has no anti-competitive effects	RMB 5 million (approximately USD 730,000)
General penalties	
(a) Obstruction of investigation	1% turnover in the preceding year or RMB 5 million (approximately USD 730,000) if there were no sales in the preceding year or the amount is difficult to calculate
(b) Personal liability for obstruction of investigation	RMB 500,000 (approximately USD 73,000)
(c) Any of the above infringements (including anti-competitive agreements, abuse of dominance, failure to notify reportable	Two to five times the prescribed fine

	Amended AML
transaction, obstruction of investigation) that are particularly egregious	

Penalty for AUCL infringements

- 6.4 Similarly, SAMR may order a business to cease the business activity that constitutes an infringement under the AUCL and impose a fine for the infringement.
- 6.5 As explained in section 5.2 above, the revised AUCL increases penalties for a range of violations and introduces new offences targeted at platform related practices. The applicable fine depends on the infringement type and seriousness. The potential fines under the revised AUCL are set out in Table 7 below.

Table 7: Maximum fines for AUCL infringements

	Amended AUCL	
Anti-competitive conduct / offence	Scenario	Penalty framework
The use of misleading or confusing marketing tactics (Article 7)	Turnover generated by the illegal business activity exceeds RMB 50,000	Up to five times of turnover
	Turnover generated by the illegal business activity is nil or less than RMB 50,000	Up to RMB 250,000 (approximately USD 36,500)
False advertising (Article 9)	Standard cases	Up to RMB 1 million (approximately USD 146,000)
	Serious circumstances involved	RMB 1 million to RMB 2 million (approximately USD 146,000 to USD 292,000)
Unfair competition acts by way of data, algorithms, technology and platform rules (Article 13)	Standard cases	RMB 100,000 to RMB 1 million (approximately USD 14,600 to USD 146,000)
	Serious circumstances involved	RMB 1 million to RMB 5 million (approximately USD 146,000 to USD 730,000)
Forcing business operators to sell products below cost (Article 14)	Standard cases	RMB 50,000 to RMB 500,000 (approximately USD 7,300 to USD 73,000)
	Serious circumstances involved	RMB 500,000 to RMB 2 million

Amended AUCL		
		(approximately USD 73,000 to USD 292,000)
Abusing an advantageous position to impose obviously unreasonable payment terms on SMEs (Article 15)	Not rectified upon SAMR's order	Up to RMB 1 million (approximately USD 146,000)
	Serious circumstances involved	RMB 1 million to RMB 5 million (approximately USD 146,000 to USD 730,000)
Obstruction of investigation (Article 35)	Personal liability	Up to RMB 10,000 (approximately USD 1,460)
	Corporate liability	Up to RMB 100,000 (approximately USD 14,600)

Private action

- 6.6 In addition to an administrative fine, a business may also be liable to pay civil damages for infringing the AML or the AUCL, as private actions and follow-on damages claims are available under both regimes.
- 6.7 Such private action is a growing area in the PRC. For example, in 2022, a Chinese individual commenced proceedings against Alibaba on the ground of abuse of dominance in relation to the discriminatory treatment in Alipay's money market fund purchases; and the famous singer Jay Chou sued NetEase Games¹³ for allegedly using his new album as a lucky draw prize, contrary to the principles of fair competition.

Leniency

- 6.8 The AML provides that leniency may be available if an undertaking voluntarily makes a report of the circumstances of an infringement and provides material evidence to the authorities.
- 6.9 The conditions for leniency are explained in the Provisions on the Prohibition of Monopoly Agreements. For the first leniency applicant, SAMR may exempt the penalty or reduce the penalty by no less than 80%; for the second applicant, the penalty may be reduced by 30% to 50%; for the third applicant, the penalty can be reduced by a range of 20% to 30%.
- 6.10 Historically, leniency has not been a significant source of antitrust investigations in the PRC compared to other major antitrust jurisdictions that offer leniency, such as the United States. The increased guidance on leniency applications may encourage businesses to report cartel behaviour to SAMR proactively, resulting in more enforcement actions.

¹³ Jay Chou [commenced an action](#) against NetEase Games in 2023. The court of first instance found in favour of NetEase Games, and Jay Chou's appeal was dismissed in 2024.

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