

# Platform Monopoly and Governance Countermeasures for the Digital Economy

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## ABSTRACT

With the rapid development of Internet information technology, the Internet industry has become one of the most dynamic and competitive industries in the world economic development today. Studying anti-monopoly issues in the Internet industry is of great theoretical and practical significance for enriching the anti-monopoly system and solving the obstacles faced by the application of China's anti-monopoly law to the Internet industry. Based on the basic theory of anti-monopoly regulations, this paper aims to distinguish the Internet industry from traditional industries in the characteristics of network externalities, bilateral markets, compatibility and standardization, dynamics and innovation, combined with typical anti-monopoly cases in the Internet industry in China and foreign countries in recent years, to analyze the application of the Anti-monopoly Law to the Internet industry. In determining market dominance and identifying monopolistic behavior, technical difficulties arise. To address these challenges, theoretical analysis and practical experience from anti-monopoly efforts in the internet industry in jurisdictions with well-developed anti-monopoly laws are taken into consideration. This paper makes practical comments and prospects on the anti-vehicle interruption of China's Internet industry, and puts forward creative targeted suggestions.

**Keywords:** Internet industry, Relevant markets, Abuse of a dominant market position, Concentration of undertakings, Antitrust regulation.

## 1. INTRODUCTION

With the rapid development of the digital economy, the emergence of various online platforms has brought tremendous convenience to people's lives and greatly promoted the development of the digital economy. However, platform monopoly has become an increasingly prominent problem in the digital economy. On the one hand, the concentration of market power in the hands of a few dominant platforms has caused concerns about unfair competition, high prices, and the exploitation of consumer data. On the other hand, the emergence of platform monopolies has also brought about innovative business models, enhanced efficiency, and increased consumer welfare. Therefore, how to effectively regulate platform monopoly in the digital economy has become an important issue that must be addressed. This paper aims to discuss the definition of platform monopoly, analyze the negative effects of

platform monopoly, and propose corresponding governance countermeasures.

## 2. THE NECESSITY OF THE ANTI-MONOPOLY LAW

With the development of science and technology, the Internet industry is booming, and the rapid development of 5G communication technology in China has contributed a lot to the promotion of Internet technology. According to the "China Internet Development Report", by the end of 2020, China's netizens are large, the penetration rate is high, the network infrastructure is becoming more and more perfect, and the digital economy is more prosperous, especially the Internet payment market, such as online shopping, has become an indispensable part of Chinese life. The Internet economy not only promotes economic development and job creation, but also promotes creation and production. At the same time, if you want to stand out, competition is inevitable, not only in the

novelty of the product, the speed of upgrading, but also in the innovation of business models. As the internet industry develops, the level of competition is intensifying with the development of the industry, such as big data killing, overlord clauses, mergers and acquisitions between enterprises, which disrupt the order of the market economy and damage the rights and interests of consumers one after another. Therefore, if you want the Internet economy to develop in a healthy and benign competition environment, the anti-monopoly law is indispensable.

The aim of anti-monopoly should not be to outlaw all monopolistic practices, as it is essential to concentrate resources in emerging industries after the Red Sea War and improve efficiency by providing feedback. These are tangible interests for consumers, and if competition is consumed on meaningless and inefficient competition, it is not benign development, but together it will be destroyed. Competitiveness is a permanent state, and it is impossible to maintain monopolies permanently. The Internet industry's dependence on innovative technology to sustain its market dominance is what keeps it competitive. Youku Video and Tudou Video merged, and there was only one in the market for a while, and iQiyi Sohu and Tencent immediately stood up to seize the market. The Microsoft empire is rock solid, but the mobile era is still behind. The key to platform competition is to expand the scale of operation, mainly to seize market share and get more users, and the competition between platforms through various means, although it is easy to lead to a unique market pattern. According to the changing market today, it is not as solid as the traditional market. Despite not being a genuine situation, competitive monopoly is merely an interim state that occurs at the peak of enterprise development, and it can still promote the market growth without any administrative intervention.

The Sherman Act, the mother of antitrust law, was born at the end of the nineteenth century, and the U.S. Supreme Court pointed out the significance of Sherman Law in one of its judgments, producing the lowest price, the most economical free allocation, the highest quality and the greatest progress in an environment of free competition. It can be seen that the purpose of the Anti-Monopoly Law is to prevent excessive concentration of economic rights, maintain economic balance, promote benign economic development, restore market order and maintain market stability through behavioral remedies,

structural remedies and other measures. However, the rapid development of the emerging Internet industry has created obstacles when it comes to application, both conceptually and technically. Conceptually, as mentioned earlier, the development of the Internet industry promotes the development of the digital economy, solves the problem of unemployment, and stimulates innovation, so some people think that excessive or inappropriate interference with the Internet will disrupt the existing market order and may inhibit innovation. Technically, the traditional market represents the real economy, where the main form of competition is price-based. Therefore, the evaluation of this market is primarily based on price factors. However, the Internet economy mainly constitutes a virtual economy, where the primary mode of competition is platform-based. In the Internet economy, price competition is insignificant, and there is a significant difference between the two markets. Thus, traditional interventions used to restrict the real economy cannot be applied to the Internet economy. If a unified standard cannot be established, the operation and implementation of such interventions will be challenging.

Therefore, the regulatory authorities should accurately grasp the direction of Internet development and recognize the law of platform competition.

### **3. THE DEFINITION OF WHETHER IT CONSTITUTES A MONOPOLY**

The premise of regulating market monopoly is to define whether the market constitutes a monopoly. The definition of monopolistic behavior in the Internet industry is different from that of traditional industries, and the methods of traditional industry definition are generally divided into two categories, one is based on whether the product is fungible or reasonably interchangeable in use, and the other is SSNIP test method and quantitative analysis method. However, the above two methods are complicated when it comes to defining the applicability of the Internet industry. The definition of the relevant market typically involves two methods, one being the method and the other being supply substitution analysis. The method of defining product functions involves assessing the product's demand and identifying potential market segments through factors such as its availability, cost, use, and physical attributes.

The higher the substitutability of the product, the closer the competition and the greater the likelihood of belonging to the same related market. The supply substitution analysis method focuses on whether the operator can be reasonably transformed into a related product with alternative demand within a certain period of time. Generally speaking, the greater the demand for substitution, the greater the possibility of belonging to the relevant market. In contrast to the traditional real economy's unilateral model, the Internet economy offers services and incentives to customers through paid transactions. Consumers have a lot of purchasing products online or conducting transactions in person, but the scope of this market is limited. If the traditional model of definition is applied in accordance with the rules, there will be situations where the results are questionable. In the Microsoft monopoly case in the United States, different results will be obtained from different angles, the plaintiff believes that the defendant has 90% of the market share from the perspective of users, but the defendant Microsoft Corporation considers the compatibility of the system from the perspective of software developers, and determines that the market share is only 30%. Even considering the bilateral lines of Internet platforms, when using the SSNIP method, selecting products from different sides will yield very different results. The real economy will consider geography in defining the relevant market, such as the place of storage, transportation costs, network sales points can be used as a consideration of the geographical market, it can be seen that the Internet is only a part of sales, should not be easily regarded as independent of the traditional market, should be considered together with the geographical location of the traditional market, but the consideration factors are not so, the Internet platform diversification, such as communication tools, email, search engines, blogs, etc., but these channels do not have geographical boundaries, It can become a problem when dividing. Therefore, Internet platforms are diverse, complex and differentiated, and anti-monopoly law enforcement authorities face many difficulties in determining market forces, defining relevant markets, and whether to apply traditional analysis methods. Even in the identification of relevant markets, the ensuing challenge arises as to determine whether the actions of the Internet industry constitute monopolies. The provisions of China's Anti-Monopoly Law are basically consistent with traditional economic theory, three major bases: first, judging the correlation between pricing and average cost and marginal cost, second, market share, and

third, the difficulty of entering the relevant market. But these three standards have almost failed in the face of the Internet industry. First of all, after the Internet industry has invested heavily in building a platform in the early stage, the average cost of Internet-related products will decrease, and the marginal cost is almost not needed, so it is difficult to determine whether it constitutes a monopoly based on price. Second, the threshold of the Internet is not set by enterprises, but set by consumers themselves, from the perspective of consumer rights protection, a higher threshold can better protect their legitimate rights and interests, so a higher threshold is conducive to the protection of consumers, not necessarily negative. Third, the competition of the Internet is not traditional price competition, but a test of the ability to innovate and renew, the faster the speed of innovation, the faster the replacement of products, and the faster the change of market structure. High-tech competition is originally the winner is king, and the final market share is the choice of consumers. Therefore, this criterion also does not apply.

#### **4. SUGGESTIONS FOR IMPROVING THE MONOPOLY LAW**

In order for China's Internet to develop successfully in the future, it is essential to maintain a strong anti-monopoly system. The first step is to strengthen the antitrust framework and safeguard consumers' legitimate rights and interests. The basic framework of competition law is composed of the Anti-Unfair Competition Law and the Anti-Monopoly Law, but due to the limitations of the law, this cannot be overcome and can only be mitigated, so it is impossible to fully deal with the anti-monopoly issue in reality. And with the increase and complexity of monopoly cases, it is more urgent for China's legislature to improve the law. (1) Firstly, the conflict between the Anti-Monopoly Law and the Anti-Unfair Competition Law needs to be resolved. If there is any conflict between these two laws, it will create difficulties for parties in making choices and judges in making judgments. The scope of adjustment of the Anti-Unfair Competition Law should be amended to ensure coordination with the Anti-Monopoly Law. (2) Relevant supporting interpretations of the Anti-Monopoly Law should be introduced. The law is ambiguous and lagging, and the issuance of relevant judicial interpretations not only enhances operational needs, but also ensures the fairness of the law. The Internet economy is different from the real economy and is difficult in determining the

market, so relevant judicial interpretations have been issued to explain the relevant market and the use of terms such as dominant position. At the same time, judicial interpretations can enhance the operability and transparency of the anti-monopoly system. Second, optimize the anti-monopoly implementation mechanism. Law is only given life if it is implemented, and if it is not implemented, it is only a book law, as American Justice Posner once said, anti-Tosra policy requires not only a sound legal system, but also relies on law enforcement. With the development of China's Internet and the prosperity of the Internet economy, China has reached an agreement with the European Union and the United States, which jointly constitute the world's three major anti-monopoly jurisdictions, but with the increase in the number of anti-monopoly cases in China and the increase in the complexity of cases, China's anti-monopoly implementation mechanism still has a lot of room for improvement. At present, the anti-monopoly implementation system in the world is divided into three types, one is coordinated management between the anti-monopoly authority and the court, the second is the coordinated management between the anti-monopoly authority, the advisory body and the court, and the third is the unitary system, which is managed by the court. Due to the particularity of China's basic national conditions and legal system, one yuan and two levels of multi-level, China's management system is two-level and multi-structure, which is the responsibility of the State Administration for Industry and Commerce, the Ministry of Commerce and the National Development and Reform Commission, but this system will undoubtedly lead to the lack of authority and independence, but authority is the principle on which is based. Therefore, in the long run, China needs to establish an independent, authoritative and centralized anti-monopoly law enforcement agency. To ensure authority and ease of understanding, it is necessary to entrust professional individuals to handle professional matters. In some cases, law enforcement personnel may lack industry-specific knowledge, which can impede their ability to make informed judgments, thereby affecting market competition and development, and ultimately harming the legitimate rights and interests of consumers. As such, it is important to optimize the anti-monopoly implementation mechanism. In addition, it is necessary to innovate the rules governing anti-monopoly litigation.

Monopoly issues can generally be resolved through civil, criminal and administrative litigation. There are currently no anti-monopoly administrative litigation cases, but as the platform has developed, it is unlikely to prevent it from appearing in the future. At present, there are more civil litigation matters between equal civil subjects, and the following areas can be improved to solve the challenge of generating evidence.

By issuing a judicial interpretation to clearly stipulate the scope of its own illegality, the plaintiff only needs to prove that the defendant has committed illegal acts and reduce the plaintiff's burden of proof. The effective legal documents allowed by the anti-monopoly law enforcement authority can be used as evidence to accuse the defendant of forming a monopoly, because the anti-monopoly law enforcement power belongs to the administrative organ, and the administrative organ can investigate and collect evidence in accordance with the law, and the evidence collected is authoritative, and at the same time, it can save judicial resources and improve judicial efficiency.

## 5. CONCLUSION

As long as there is competition, there may be monopoly, and as long as there is a monopoly, the anti-monopoly law is required. The regulatory methods of the traditional economy have played an important role in the Internet industry to some extent, but the Internet industry has its own particularities, so traditional laws and regulations, regulatory methods, etc. are sometimes not very applicable, so it is necessary to innovate and respond to challenges. When regulating the Internet industry, one needs to abide by two principles: one is the modesty of law enforcement, and the other is to pay attention to the balance between fairness and efficiency. Based on the current major problems in anti-monopoly identification and law enforcement, this paper puts forward three suggestions: enhance the legal system to prevent monopolies, optimize the anti-monopoly implementation mechanism, and innovate the litigation regulation to counter a dominant market.

Anti-monopoly law in the Internet industry is an emerging and wide-ranging research area, and this article is only brief.

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