

China Monthly Antitrust & Data Protection Update

July 2020

This document is not designed to provide legal or other advice and you should not take, or refrain from taking, action based on its content. For any specific questions, please contact the partners below.

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Antitrust

Legislation

National Healthcare Security Administration Issues Documents to Strike Malicious Monopoly and Bribery of Pharmaceutical Companies

On 5 June 2020, the National Healthcare Security Administration issued the *Letter on Soliciting Comments on Guidance on the Establishment of Pharmaceutical Price and Procurement Credit Evaluation System (Draft for Comment)* and the *Letter on Soliciting Comments on Operating Specifications on Pharmaceutical Price and Procurement Credit Evaluation*, in which behaviours of pharmaceutical companies in contravention of laws and regulations or in breach of good faith and fair competition in the process of pricing, marketing, bidding, and performance to the contract to obtain improper benefits are all included in the evaluation criteria, such as commercial bribery, abuse of market dominance, market price manipulation, breach of contract and disruption of procurement process, etc.¹

Beijing AMR Publicly Solicits Comments on the *Classification Standard for Administrative Penal Behaviours*, with Serious Antitrust Violations as Grade A

On 5 June, Beijing Administration for Market Regulation (“**Beijing AMR**”) solicited comments from the public on the *Classification Standard for Administrative Penal Behaviours (Draft for Comment)* and the *Interim Provisions on Management of Administrative Penalties Publication Period of Beijing Administrative for Market Regulation (Draft for Comment)*. Beijing AMR classified administrative penalties into grades A, B, and C according to the seriousness and the types of violations, and determined the grades for various violations, among which serious violations in the antitrust field are classified as grade A, the minimum publication period of which is 12 months (can be shortened to 6 months upon application), and 36 months under serious circumstances (cannot be shortened upon application).²

Hubei Province Publishes the *Notice of Ten Must and Ten Must-Not to Promote the “Waiter Spirit”*

On 15 June, the General Office of Hubei Provincial Party Committee and the Provincial Government issued the *Notice of Ten Must and Ten Must-Not to Promote the “Waiter Spirit”* and asked for rigorous implementation in all localities in accordance with actual conditions. It is particularly required for

¹ <https://mp.weixinbridge.com/mp/wapredirect?url=https%3A%2F%2Fwww.jiemian.com%2Farticle%2F4482752.html>

² http://scjgj.beijing.gov.cn/zwxx/tgg/202006/t20200605_1918026.html

equal treatment of all market players and strict implementation of the negative list of market access and fair competition review system, whereas prohibited arbitrary lift of entry threshold and engagement in local protection, designated transactions and establishment of market barriers.³

Shandong Province Carries out the Regulation of Enterprise-related Charges by Industry Associations and Chambers of Commerce

On 3 June, Shandong Provincial Social Organization Administration issued the *Notice on the Regulation of Enterprise-related Charges by Industry Associations, Chambers of Commerce and other Social Organizations in 2020*, which requires the industrial associations and chamber of commerce to regulate their approaches concerning the development of members, adhere to the principle of voluntary engagement and free withdrawal, and prohibits engagement by force or by force in disguise or obstruction to withdrawal using administrative power, monopoly advantages and industry influence; prohibits illegal charges and usage of administrative power and monopoly status to force services for charges or charge without services. In addition, Shandong Provincial Social Organization Administration also issued the *Announcement on Publication of Contact Number for Complaints of Illegal Charges by Industry Associations, Chambers of Commerce and other Social Organizations*, which specifies the reporting channels for the aforementioned behaviours.⁴

State Council Issues the Overall Plan for the Construction of Hainan Free Trade Port to Establish and Improve the Fair Competition System

On 1 June, the Central Committee of the Communist Party of China and the State Council issued the *Overall Plan for the Construction of Hainan Free Trade Port* and proposed in the system design that a fair competition system will be established. The foundational position of the competition policy shall be strengthened to ensure that the market players of all types of ownership enjoy equal treatment in terms of production factor obtaining, standard setting, entry permit, business operation, and preferential policies. Domestic and foreign companies shall be treated equally in government procurement. The anti-monopoly law enforcement shall be strengthened and optimized, administrative monopolies cracked, market monopolies prevented, and fair competition market order maintained.⁵

³ http://www.hubei.gov.cn/zwgk/hbyw/hbywqb/202006/t20200622_2396799.shtml

⁴ http://mzt.shandong.gov.cn/art/2020/6/3/art_92774_9176226.html

⁵ http://www.xinhuanet.com/politics/2020-06/01/c_1126061034.htm

Nanjing Promulgates the Measures for Handling Complaints and Reports Concerning Fair Competition Review

Recently, in order to rigorously implement the “six stabilities” and “six guarantees”, to further promote the implementation of the fair competition review system, and to create a fair competition environment and a market-oriented, rule-of-law, and international business environment, Nanjing Office of the Joint Conference on Fair Competition Review was the first nationwide to promulgate the *Measures for Handling Complaints and Reports Concerning Fair Competition Review of Nanjing City*.⁶

⁶ http://www.samr.gov.cn/fldj/tzgg/gpizsc/202006/t20200611_316954.html

Authorities

Shanghai AMR Releases Anti-monopoly Compliance Promos

On 30 June 2020, Shanghai Administration for Market Regulation (“**Shanghai AMR**”) released a series of anti-monopoly compliance promos which introduced various monopolistic violations in order to further enhance the undertakings’ awareness of fair competition and anti-monopoly compliance, to help undertakings engage in competition in an orderly manner, to promote the further optimization of the city’s business environment and to form a good atmosphere and understanding on promoting a competitive culture.⁷

Shaanxi AMR Holds a System-wide Video Conference to Promote Fair Competition Review and Policy Cleansing

Recently, Shaanxi Administration for Market Regulation (“**Shaanxi AMR**”) held a video conference in the provincial market regulation system to promote fair competition review and cleanse policy measures that impede unified markets and fair competition. The meeting asked the market regulation administrations at all levels in the province to raise political awareness and further deepen understanding of the importance and urgency of fair competition review and cleansing policy measures that impede unified markets and fair competition; to fully enforce accountability of cleansing, accurately comprehend the cleansing requirements, and to complete all cleansing tasks without compromise.⁸

Shandong Province Improves Fair Competition Review Work System

Recently, the joint conference on fair competition review work of Shandong province revised and improved the *Working Rules of the Joint Conference on Fair Competition Review Work of Shandong Province* and the *Working Specifications of the Office of the Joint Conference on Fair Competition Review Work of Shandong Province*, and formulated the *Regulations of the Office of the Joint Conference on Fair Competition Review on the Consultation on the Fair Competition Review*, which laid a solid foundation for further promotion of fair competition review in Shandong Province.⁹

Shandong Local AMRs Issue Warnings on the Motor Vehicle Testing Industry

On 22 June, Shandong Weifang Administration for Market Regulation issued a warning on the pricing behaviour of various motor vehicle testing agencies and associations in the city, and clearly stated that it would seriously investigate and punish violations of the *Price Law* and the *Anti-monopoly Law*, including collusion and manipulation of market prices; fabrication and distribution of price rise

⁷ https://mp.weixin.qq.com/s/aDMuqvI0iJf_VfIyoRII0A?scene=25#wechat_redirect

⁸ http://www.samr.gov.cn/fldj/tzgg/gpizsc/202006/t20200622_317324.html

⁹ http://www.samr.gov.cn/fldj/tzgg/gpizsc/202006/t20200622_317323.html

information to drive up prices; participation of monopoly agreements; and using false or misleading pricing forms or methods to deceive or induce consumers or other operators to trade.¹⁰ On 19 June, the Shandong Linyi Administration for Market Regulation issued the same warning notice.¹¹

Guangxi, Guizhou and Other Provinces Hold Plenary Conferences of the Joint Meeting on Fair Competition Review

On 19 June, the third plenary conference of the inter-office joint meeting on Guangxi fair competition review was held in Nanning. The meeting summarized the implementation of the fair competition review system, reviewed relevant documents, and studied and deployed the key work for the next stage. The meeting emphasized that all member units should highlight and focus on the five aspects of the work, and effectively and orderly promote the fair competition review to achieve greater results.

¹² Recently, the plenary conference of the joint meeting on Guizhou province fair competition review was held in Guiyang. The meeting reviewed and approved the *Measures on Coordinating and Resolving the Major Difficulties of Guizhou Province Fair Competition Review (Trial)* and the *Measures on Evaluation and Correction of Guizhou Province Implementation of the Fair Competition Review System (Trial)*.¹² Anhui Province and Jilin Province also successively held plenary conferences of the joint meeting on provincial fair competition review.¹³

Shanghai AMR Investigates SMEs' Understanding of the Exemption System for Monopoly Agreement

On 12 June, to improve the operating efficiency, enhance the competitiveness, and protect the legal rights and interests of SMEs, also to further optimize the business environment, Shanghai AMR designed a questionnaire on SMEs' knowledge of the exemption system for monopoly agreements so as to investigate SMEs' understanding of monopoly agreement exemptions and applicable conditions, as well as their opinions and suggestions on relevant regulations.¹⁴

Sichuan Suining Administration for Market Regulation Interviews 12 Public Utility Companies

On 9 June, the Sichuan Suining Administration for Market Regulation and the Suining Consumer Protection Committee jointly organized a public enterprise interview meeting on the theme of "Creating a Safe and Comfortable Consumer Environment and Optimizing and Enhancing the

¹⁰ <http://news.bandao.cn/a/381090.html>

¹¹ <https://mp.weixin.qq.com/s/Pbx7t4hEKAn2urEkHLS1PA?sc>

¹² http://www.samr.gov.cn/fldj/tzgg/gpjzsc/202006/t20200611_316956.html

¹³ http://www.samr.gov.cn/fldj/tzgg/gpjzsc/202006/t20200611_316955.html;

http://www.samr.gov.cn/fldj/tzgg/gpjzsc/202006/t20200611_316953.html

¹⁴ <https://mp.weixinbridge.com/mp/wapredirect?url=https%3A%2F%2Fwww.wjx.cn%2Fm%2F80506902.aspx>

Business Environment” and interviewed 12 public utilities in the five industries of communication, water, electricity, gas, and finance. Typical cases such as excessive charging and bundling that consumers care most about were notified, and the rectification work as to the illegal behaviours of public utility enterprises were deployed specifically.¹⁵

SAMR and Three Other Departments Issue the *Work Emphasis of the 2020 Inter-ministerial Joint Meeting on the Fair Competition Review*

On 8 June, in order to further promote the fair competition review work, the State Administration for Market Regulation (“SAMR”), the National Development and Reform Commission, the Ministry of Finance and the Ministry of Commerce, together with the relevant departments, issued the *Work Emphasis of the 2020 Inter-ministerial Joint Meeting on the Fair Competition Review*, which includes (1) further improving the review rules; (2) comprehensively cleaning up the existing stock of policy measures; (3) effectively improving the review quality of incremental measures; (4) constantly strengthening institutional constraints; and (5) focusing on strengthening the fundamental support of the review.¹⁶

Fujian AMR Issues the *Warning on the Implementation of the Policy of Reducing Electricity Prices by Power Supply Transferring Providers*

On 1 June, in order to urge each power supply transferring providers to pass on the reduced electricity fees to end users in full and in time, Fujian Administration for Market Regulation (“Fujian AMR”) issued the *Warning on the Implementation of the Policy of Reducing Electricity Prices by Power Supply Transferring Providers*, reminding the power supply transferring providers of self-check and self-correction, so as to ensure that the policy is implemented and the electricity price standard of industry and commerce are not raised without authorization.¹⁷

¹⁵ <https://mp.weixinbridge.com/mp/wapredirect?url=https%3A%2F%2Fsichuan.scol.com.cn%2Fxnwx%2F202006%2F57824794.html>

¹⁶ http://www.samr.gov.cn/fldj/tzgg/gpjzsc/202006/t20200618_317119.html

¹⁷ https://mp.weixin.qq.com/s?__biz=MzA3NTMwMTkxNA==&mid=2656576441&idx=2&sn=fa39bc5c6999be87ed242b8f315335ee&chksm=84de16ccb3a99fdadfe0458d04440a9148a7b174fb9256bb801acfdab86926b4775a885acc36&token=1979809991&lang=zh_CN##

Public Enforcement

SAMR Imposes Fines of CNY 7.65 Million in Total on 19 Concrete Enterprises in Maoming, Guangdong for Collusion to Increase Price

On 24 June, 2020, SAMR announced on its official website that 19 concrete enterprises in Maoming, Guangdong have been fined CNY 7.65 million in total for collusion to increase price. In February 2017, the original price supervision bureau of the Guangdong Development and Reform Commission received an anonymous report, reflecting that several concrete production enterprises in Maoming City coordinated to increase product sales prices. In November 2018, an investigation into the 19 enterprises involved including Yuanfeng Commercial Concrete Co., Ltd. was carried out for the suspicion of violating the *Anti-monopoly Law*. On 1 June, 2020, the Guangdong Administration for Market Regulation made an administrative penalty decision on the 19 enterprises involved.¹⁸

¹⁸ http://www.samr.gov.cn/fldj/tzgg/xzcf/202006/t20200624_317369.html

Merger Control

SAMR Imposes Administrative Penalties on Sanhe and Jianhua's Successive Gun-Jumping

On 9 June, 2020, SAMR imposed administrative penalties on the Guangdong Sanhe Pipe Pile Co., Ltd. and Guangdong Jianhua Pipe Pile Co., Ltd. for establishing 2 joint ventures, Guangdong Hejian Building Materials Co., Ltd. and Guangdong Tuona Building Materials Co., Ltd., without declaration. Each was fined CNY 600,000 accumulatively.¹⁹

¹⁹ http://www.samr.gov.cn/fldj/tzgg/xzcf/202006/t20200615_317038.html; http://www.samr.gov.cn/fldj/tzgg/xzcf/202006/t20200615_317036.html

Courts Litigation

Jiangsu Provincial Higher People's Court Accepts *Meijingrong v. DuPont* Case

According to the recent news, Jiangsu Provincial Higher People's Court has officially accepted the case filed by Meijingrong on allegedly malicious fraud, breach of contract and monopoly by DuPont. The plaintiff asked the court in the monopoly and breach of contract litigation to declare that the clauses that DuPont used its market dominance to force the plaintiff to accept including the "technology embezzlement" clause were invalid due to violation of the *Anti-monopoly Law*, and therefore it requested DuPont to stop misappropriation of technology, restrictions on transactions and other abusive behaviours of market dominance, and compensate the plaintiff for hundreds of millions of huge economic losses suffered due to the contract fraud and monopolistic behaviours of DuPont.²⁰

Beijing Intellectual Property Court Makes the First-instance Judgment on 8 KTV Companies' Antitrust Lawsuit Against CAVCA

Recently, Beijing Intellectual Property Court made the first-instance judgment on the case of 8 KTV companies in Guangdong against China Audio-Video Copyright Association ("CAVCA") and dismissed the plaintiffs' claims. In this case, the court stated that in the relevant market of the licensed use of KTV operations for film works or audio-video products in mainland China, CAVCA has a dominant market position. However, the available evidence is insufficient to prove that CAVCA has abused such dominant position, the plaintiffs' claims were dismissed and a letter of judicial advice was sent to CAVCA.²¹

²⁰https://mp.weixin.qq.com/s/bAuUwO9OkPebizaX7-kxkA?scene=25#wechat_redirect

²¹https://mp.weixin.qq.com/s/0Lgj6c49wSEBIMFt_eq-mQ?scene=25#wechat_redirect

Data Protection

Legislation

Guangzhou Proposes to Introduce New Rules, Real Estate Agents to Be Fined for Selling Personal Information

On 29 June 2020, the *Guangzhou Management Regulation on House Leasing (Revised Draft)* was submitted to the Standing Committee of Guangzhou Municipal People's Congress for deliberation. The draft stipulates that house leasing enterprises and real estate brokering agencies shall not disclose or sell the personal information and commercial secrets of the parties concerned, otherwise, a fine up to CNY10,000 will be imposed. ²²*Draft of Data Security Law Is Coming: Data Classification Management and Emergency Response System to Be Established*

On 24 June, Zang Tiewei, spokesperson and director of the Research Office of Legislative Affairs Committee of the Standing Committee of National People's Congress ("NPC"), revealed that the *Data Security Law (Draft)* mainly includes: establishing various basic systems for data security management, including classification management, risk assessment, monitoring and early warning, and emergency disposal; clarifying the information security protection obligations of organizations and individuals conducting data activities and implementing security protection responsibilities; attaching equal importance to security and development and providing measures to support both; and introducing institutional measures to ensure the security of government information and promoting the opening of such data. The draft will be reviewed for the first time at the 20th Session of the 13th NPC Standing Committee held on 28-30 June. ²³

Ministry of Transport Issues the *Measures for the Management of Scientific Data on Transport (Draft for Comments)*

On 23 June, the Ministry of Transport issued the *Measures for the Management of Scientific Data on Transport (Draft for Comments)* to strengthen and standardize transport scientific data management. Such scientific data of transport mainly refers to the data generated in the field of transportation engineering technology through basic research, application research, and experimental development, as well as the original data and its derived data obtained through observation, monitoring, investigation, inspection and testing, etc., and used in scientific research activities, excluding data obtained from management work such as transportation operation monitoring. ²⁴

²² https://www.sohu.com/a/404775665_161795

²³ https://mp.weixin.qq.com/s/bvd9-CNnqIvW1TUKB9-msA?scene=25#wechat_redirect

²⁴ http://xxgk.mot.gov.cn/jigou/kjs/202006/t20200623_3398111.html

2020 Legislative Work Plan Adjusted: Personal Information Protection Law and Data Security Law to Be Reviewed For the First Time

On 20 June, the adjusted 2020 legislative work plan reviewed and approved at the 58th session of Chairman of the 13th NPC Standing Committee was announced. According to the plan, there are 29 legislative bills to be reviewed for the first time by the Standing Committee of NPC in 2020, including the *Personal Information Protection Law* and the *Data Security Law*.²⁵

MIIT Prohibits Call Centers from Making Harassing Calls to Ensure the Safety of Users' Personal Information

On 18 June, the Ministry of Industry and Information Technology (“MIIT”) issued the *Notice on Strengthening the Management of Call Center Services* to prohibit call centers or their customers from making harassing calls. If they are notified, interviewed or administratively punished for harassing calls by authority, the call centers will be included in the list of poorly operated and untrustworthy telecommunications services. The notice requires that, when applying for approval, companies operating call centers shall submit a commitment that no harassing calls will be made. In principle, the call center telecommunication service access number only enables the call-in function. For those which really need to open the call-out function, the companies must promise not to violate the rules.²⁶

Cybersecurity Standards Further Upgraded by MIIT and NISSTC

On 11 June, the National Information Security Standardization Technical Committee (“NISSTC”) issued a notice that the proposal for the establishment of a national network security standard project in 2020 had been made; and standards have been released to solicit public comments, including a total of 54 national standards formulated or revised such as the *Information Security Technology - Basic Specification for Collecting Personal Information in Mobile Internet Applications*. On 12 June, MIIT also published the notice of the first batch of industrial standard formulation and revision project plans for 2020 on its website, including a total of 25 industrial standards related to cybersecurity and data protection such as the *Implementation Guide for Security Risk Assessment of Telecom Network and Internet*.²⁷

Zhejiang Promulgates the First Provincial Public Data Opening Measures Nationwide

On 4 June, the *Interim Measures on Public Data Opening and Security Management in Zhejiang Province* (“Measures”) was reviewed and approved at the 44th session of the provincial government meeting and will be officially implemented on 1 August 2020. The Measures was jointly drafted by Zhejiang Provincial Department of Justice and Zhejiang Provincial Big Data Bureau. It is the second

²⁵ http://www.gov.cn/xinwen/2020-06/20/content_5520865.htm

²⁶ <http://www.miit.gov.cn/n1146295/n1652858/n1652930/n3757020/c7979380/content.html>

²⁷ <http://www.miit.gov.cn/n1146290/n1146402/n1146440/c7965923/part/7965934.pdf>

local public data opening legislation after Shanghai and the first provincial public data opening legislation nationwide. The Measures consist of 7 chapters and 48 articles, including general rules, data openness, data utilization, data security, supervision and management, legal liability, and supplementary provisions.²⁸

²⁸ https://k.sina.cn/article_5131766197_131e089b501900v887.html?wm=4007

Enforcement Authority

Gansu Provincial Cybersecurity Trial Court Unveiled under the Provincial Court

On 2 June 2020, on the occasion of the third anniversary of the promulgation and implementation of the *Cybersecurity Law*, Gansu Provincial Cybersecurity Trial Court jointly established by Gansu Provincial High People's Court and the Provincial Committee Cybersecurity Administration Office was unveiled under the Provincial Court. It aims to explore the establishment of a cybersecurity case judicial trial working mechanism, punish cybercrime activities in accordance with the law, uniformly issue typical cases, and protect the information security of citizens, legal persons and other organizations.²⁹

Sichuan Provincial Court Proposes to Establish a Data Protection System for Minors

On 1 June, in order to protect the rights and interests of minors, Sichuan Provincial Court would continue to strengthen the protection of the legal rights and interests of minors by setting up a trial-centric minor data protection system. As reported, currently, a database had been established in two levels of courts in Chengdu, which contained 1,025 pieces of information on sexual assault crimes such as rape, child molestation and other crimes. Education bureau, health committee, transportation bureau and other government departments are allowed to access such data.³⁰

²⁹ <http://gansu.gansudaily.com.cn/system/2020/06/03/017448002.shtml>

³⁰ <http://scnews.newssc.org/system/20200602/001073933.html>

Enforcement Cases

First Administrative Penalty of Qingdao on Infringement of Consumer's Personal Information: a Fine of CNY 50,000 Imposed for Uninvited Calls

On 22 June 2020, Qingdao market supervision department carried out law enforcement activities against more than a dozen real estate properties in four districts, and issued its first fine in this area. It is reported that when inspecting a real estate sales center in Shibei District, enforcers found that a seller is calling consumers to promote products using the information provided by the company. After investigation, it was found that the company responsible for the sale of the property had the information of 270 consumers (name, mobile phone number, economic affordability) registered in other real estate sites. Through deep digging of clues and evidence, it was confirmed that consumers did not know and grant authorities to use personal information for other purposes. The company's behavior was suspected of violating laws and regulations. Eventually, Qingdao market supervision department imposed an administrative penalty of CNY 50,000 on the company concerned.³¹

A Staff of a Street Office in Yanjiao, Hebei Province Detained Due to Leaking Personal Privacy Information

Reported on 17 June, recently, the Sanhe Public Security Bureau ("PSB") of Hebei Province discovered that multiple WeChat groups in Sanhe spread photos of a document titled Emergency Report Form, which involves residents' privacy information. After investigation, Jia, a staff of Yingbin North Road Subdistrict Office in Yanjiao High-tech Zone, saw the document in the WeChat group on duty in the Street Office and forwarded it to his family group (including 7 group members), resulting in the spread from internal working 说 group to external social WeChat group, and caused a large number of spreads in Sanhe local WeChat group. At present, the criminal suspect Jia has been administratively detained by Sanhe PSB for 10 days for infringement of privacy of citizens, and imposed a fine of CNY 500.³²

20,000 College Students' Information Leaked, the Deputy Principal Imposed Administrative Penalties

On 11 June, a number of students from Zhengzhou Sias College alleged that the personal information of nearly 20,000 students in the school was leaked and circulated in a tabular format on social platforms such as WeChat and QQ. Following a public apology statement issued by the school, Zhengzhou police issued news that the police had imposed administrative penalties on Zhengzhou

³¹ <http://www.qjwb.com.cn/detail/12476818>

³² <https://news.sina.cn/gn/2020-06-17/detail-iirczymk7541100.d.html?from=wap>

Sias College, a deputy principal in charge of leadership and a directly responsible individual in accordance with the *Cybersecurity Law*.³³

MIIT Inquires and Interviews Regarding Media Reports on Infringement of User Rights by APPs

On 10 June, according to the laws and regulations such as the *Cybersecurity Law*, the *Regulations on Telecommunications*, and the *Provisions on Protecting the Personal Information of Telecommunications and Internet Users*, MIIT organized third-party testing agencies to inspect the mobile phone application software, conducted centralized interviews with enterprises that had been found problems to respond to the recent CCTV news which exposed mobile APPs infringing on the rights and interests of users. The relevant enterprises are required to complete the rectification before 17 June.³⁴ Educational Training Institutions Fined CNY 300,000 for Collecting More Than 140,000 Pieces of Personal Information

On 10 June, Jiangyin Market Supervision Bureau of Jiangsu Province seized a case of illegal collection of more than 140,000 personal information, including school, student name, gender, grade, class, student home address, parent name and phone number and other information in the action of “Consumption Protection”. It was reported that the parties concerned sent commercial education and training messages by phone without the consent of students’ parents; and continued to make calls after some students’ parents explicitly refused.³⁵

CAC Instructs Beijing Cyberspace Administration Office to Interview and Punish Sina Weibo

On 10 June, the Cyberspace Administration of China (“CAC”) instructed Beijing Cyberspace Administration Office to interview the person in charge of Sina Weibo, and ordered Weibo to rectify immediately regarding the issues that Weibo interfered with the order of online dissemination in the event of Jiang’s public opinion and the dissemination of illegal information, etc. CAC ordered Sina Weibo to suspend updating the Weibo hot search list and the hot topic list for a week, and seriously punish the relevant responsible persons. At the same time, CAC requested Beijing Cyberspace Administration Office to impose strict administrative penalties on Sina Weibo.³⁶

Beijing Municipal Commission of Transport: ofo Interviewed and Investigated Due to Data Transmission Interruption

On 27 May, Beijing Municipal Commission of Transport issued the *Public Notice on the Operation and Supervision of the Internet Rental Bicycle Industry in the First Quarter of 2020*. It showed that

³³ https://m.thepaper.cn/newsDetail_forward_7796086

³⁴ <http://www.miit.gov.cn/n1146285/n1146352/n3054355/n3057709/n3057714/c7965031/content.html>

³⁵ <http://www.ccn.com.cn/html/news/xiaofeiyaowen/2020/0610/486351.html>

³⁶ http://www.cac.gov.cn/2020-06/10/c_1593350719478753.htm

ofo had been interviewed by the municipal law enforcement corps and investigated due to the interruption of data transmission, and it was required to make corrections within a limited time.³⁷

³⁷ <http://news.ynet.com/2020/05/27/2620288t70.html>

Courts Litigation

Hunan Tries Its First Case of Infringement of Citizen's Personal Information

On 22 June 2020, the People's Court of Jianghua Yao Autonomous County publicly heard the first case of public prosecution with a public interest lawsuit filed by the People's Procuratorate of Jianghua County, in which Fan and other five people were suspected of infringing the personal information of citizens. The prosecution organ alleged that Fan and other five people set up a studio in a community of Jianghua County, and hired people to defraud others' WeChat account and passwords to sell for profit by means of renting WeChat for profit. A total of 80 WeChat accounts were defrauded, 19 of them were sold, and the illegal gains were more than CNY 7,000, which has constituted a crime of infringing personal information of citizens, and violated the relevant provisions of the *General Rules of Civil Law* and the *Cybersecurity Law*.³⁸

The First Case of Face Recognition in China Heard by Court

On 15 June, Guo Bing v. Hangzhou Wildlife World Co., Ltd. ("**Animal World**"), known as the "First Case of Face Recognition" in China was heard. During the trial, Guo Bing and the Animal World debated three issues. The first is whether the Animal World has informed Guo Bing of other ways to enter the park. The second is whether Guo Bing has the right to request the Animal World to delete his fingerprint information. The third is whether Guo Bing can require compensation from Animal World. After the trial, Fuyang District People's Court stated that the case would be sentenced at an optional date.³⁹

The First Unfair Competition Case Regarding WeChat Data Rights Sentenced

On 2 June, Hangzhou Internet Court made its decision on the unfair competition case between Tencent and two network technology companies in Zhejiang in the first instance. The court ordered the two defendants to stop unfair competition, compensate the plaintiffs for economic losses and reasonable expenses of CNY 2.6 million, and eliminate adverse effects. The judgment in this case clarified the data rights and interests of the network platform regarding the different ownership of the user's information it controls, and clarified the rights boundary between the different data rights and interests of the network platform.⁴⁰

³⁸ <http://www.yzcity.gov.cn/cnyz/bmkx/202006/e99a500698d947898c709446955b4ba6.shtml>

³⁹ https://www.sohu.com/a/402337884_114988? f=index_pagerecom_3

⁴⁰ <https://www.chinacourt.org/article/detail/2020/06/id/5264431.shtml>

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