



...With Zhenguo Wu

In this month's edition of CPI Talks... CPI's Vanessa Yanhua Zhang¹ had the pleasure of speaking with Zhenguo Wu. Mr. Wu is Director General of the Anti-Monopoly Bureau of State Administration for Market Regulation ("SAMR") of P.R. China.

Thank you, Mr. Wu, for sharing your time for this interview with CPI.

2018 is a historical year in China's anti-monopoly development. It was not only the 10th anniversary of the implementation of the Anti-Monopoly Law, but also a milestone for China's anti-monopoly authorities. On April 10, 2018, the State Administration for Market Regulation (SAMR) was official inaugurated, combining the anti-monopoly enforcement responsibilities of the previous Price Supervision and Anti-Monopoly Bureau of the National Development and Reform Commission, the Anti-Monopoly Bureau of the Ministry of Commerce, and the Anti-Monopoly and Anti-Unfair Competition Bureau of the State Administration for Industry and Commerce. The unified authority conducts more efficient regulatory work, and guarantees the comprehensive implementation of the Anti-Monopoly Law. On January 30, 2019, on behalf of the Antitrust Chronicle, we are very honored to have an interview with Mr. Zhenguo Wu, Director General of the Anti-Monopoly Bureau of the State Administration for Market Regulation (SAMR) of P.R. China. Below is the full interview.

Dr. Zhang: In April 2018, the State Administration for Market Regulation (hereinafter referred to as SAMR) was officially inaugurated. The new Anti-Monopoly Bureau integrates the anti-monopoly responsibilities of the National Development and Reform Commission ("NDRC"), the Ministry of Commerce ("MOFCOM"), and the State Administration for Industry and Commerce ("SAIC"). Please introduce the functions of the new Anti-Monopoly Bureau and the benefits of the unified anti-monopoly law enforcement.

DG Wu: According to the State Council Institutional Reform Plan, the Anti-Monopoly Bureau of SAMR is responsible for unified anti-monopoly law enforcement. SAMR has currently finished its institutional reform of the national anti-monopoly law enforcement agencies, while the overhaul of the local anti-monopoly law enforcement agencies is in progress. The Anti-Monopoly Bureau of SAMR is responsible for: coordinating and promoting the implementation of competition policies; formulating Anti-Monopoly measures and guidelines; organizing and implementing anti-monopoly law enforcement, conducting anti-monopoly review on concentrations of undertakings according to law, and being responsible for anti-monopoly law enforcement against monopoly agreements, abuse of market dominance and abuse of administrative power which excludes and restricts competition; providing guidance to enterprises in response to offshore anti-monopoly complaints; undertaking international cooperation and communication in anti-monopoly law enforcement, and undertaking the daily work of the Anti-Monopoly Committee of the State council. At present, the Anti-Monopoly Bureau has a total of 10 divisions, and 7 of them are case divisions, which reflects the comprehensive supervision of the Bureau from prevention at the very beginning to supervision during the process and afterwards.

SAMR is responsible for unified anti-monopoly law enforcement, which eliminates the cross-functional issues with the three former law enforcement agencies, and is conducive to building a unified, authoritative, and efficient anti-monopoly law enforcement system and realizing the optimization, coordination and efficiency of anti-monopoly law enforcement. According to China's Anti-Monopoly Law, the central authority is entitled to the enforcement of the Anti-Monopoly Law, which is under the responsibility of the anti-monopoly law enforcement agency of

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the State Council. This is conducive to ensuring the unity of anti-monopoly law enforcement, and building a unified, open, and orderly market system in China.

Meanwhile, pursuant to Article 10, Paragraph 2 of the Anti-Monopoly Law, the anti-monopoly law enforcement agency of the State Council may authorize the corresponding agencies of the people's governments of provinces, autonomous regions, and municipalities, to take charge of the anti-monopoly law enforcement when needed. In order to make up for the lack of anti-monopoly law enforcement forces at the national level we will learn from enforcement agencies in the jurisdictions in Europe and the U.S. in the institutional settings, establish the mechanism of law enforcement authorization for provincial market supervision agencies, and issue the Notice of SAMR on Anti-Monopoly Law Enforcement Authorization. We strengthen the guidance and supervision of local anti-monopoly work, mobilize the initiative of provincial market supervision agencies, unify law enforcement rules and standards, establish the fair, open and transparent market rules, and resolutely prevent and overcome local protectionism and market segmentation. By further improving the anti-monopoly law enforcement system, we promote the comprehensive and effective implementation of the Anti-Monopoly Law.

Dr. Zhang: Please introduce the case handling work of the Anti-Monopoly Bureau since its establishment.

DG Wu: In the past decade, China's anti-monopoly enforcement agencies handled 172 monopoly agreement cases, and 58 market ascendancy abuse cases, with an accumulated fine exceeding RMB 11 billion; the agencies investigated and punished 220 cases of abuse of administrative power to exclude or restrict competition; the agencies also reviewed more than 2,500 filings of concentration of undertakings, with a total transaction value of more than RMB 40 trillion.

In 2018, China's anti-monopoly enforcement agencies filed 19 cases of suspected monopoly agreements and 17 cases of suspected abuse of market dominance, and settled 16 of them; the agencies investigated and punished 54 cases of abuse of administrative power to exclude or restrict competition; the agencies received 513 applications for concentration of undertakings, filed 468 of them, concluded 468 cases (the annual growth rates of the applications, the filings and the case conclusions all exceed 30 percent), and approved 4 transactions with additional conditions; the agencies punished 15 transaction not filing according to law, as well as Thermo Fisher's violation of its announced obligations in its acquisition of Life Technologies. These conducts maintain the legal authority of the Anti-Monopoly Law.

Dr. Zhang: Please introduce the focus of SAMR in anti-monopoly law enforcement and the mainly involved industries.

DG Wu: The Anti-Monopoly Bureau will promote anti-monopoly law enforcement in the following five aspects:

First, we will establish a unified, authoritative and efficient anti-monopoly law enforcement system. We will strengthen the central and local anti-monopoly law enforcement forces. We will continue to build the enforcement system and mechanisms, strengthen the construction of anti-monopoly law enforcement forces, and provide the talent to carry out effective anti-monopoly work. We will enhance the investment and allocation of local anti-monopoly law enforcement forces, realizing optimized, coordinated and efficient anti-monopoly law enforcement. We will strengthen the construction of the cooperation mechanism. SAMR and the provincial market supervision authorities will collaborate and cooperate to form the joint force. We will strengthen the communication and cooperation with experts and think tanks to provide intellectual support for anti-monopoly work.

Second, we will promote the anti-monopoly law enforcement to be more normal, professional and normative. We shall maintain the comprehensive law enforcement environment. We will resolutely investigate and punish various monopoly conducts including monopoly agreements, abuse of market dominance and abuse of administrative power which excludes and restricts competition, and conduct anti-monopoly review on concentration of undertakings. Key areas should be focused on. We will pay attention to the important fields and key sectors which affect fair competition and economic development, and advance the overall anti-monopoly work through typical cases. We will strengthen anti-monopoly law enforcement in key areas affecting people's livelihood, ensuring and protecting consumers' choices and fair-trading rights. We will strengthen economic analysis of cases, improve law enforcement procedures, restrict discretionary power, treat all types of market entities on an equal footing, and promote the professionalization and standardization of law enforcement.

Third, we will construct a complete, scientific, standardized and efficient anti-monopoly system. Based on the national conditions and considering all aspects, we will promote the amendment of the Anti-Monopoly Law and the supplementary laws, and complete the establishment, amendment or abolition of supplementary laws and regulations of the three former law enforcement agencies. We will formulate the Provisions on Prohibition of Monopoly Agreements, the Provisions on Prohibition of Abuse of Market Dominance, and the Provisions on Prohibition of Abuse of Administrative Power to Exclude or Restrict Competition, in order to improve the Anti-Monopoly Law system. We will issue and implement anti-monopoly guidelines to further improve the transparency and predictability of law enforcement. We will strengthen the fundamental role of competition policies, create an institutional environment for fair competition, and further enrich the tools for implementing competition policies. While strengthening anti-monopoly law enforcement and implementing the fair competition review system, we will explore policy tools for promoting competitive reform in key industries and optimizing the competitive environment, further enhance the pertinence and effectiveness of competition policies, fulfill the fundamental role of competition policies, and promote the high-quality development of China's economy.

Fourth, we will strengthen the construction of the antimonopoly law enforcement team and their relevant capacities. Having the law enforcement agencies in the jurisdictions of the United States and Europe as reference, we will train law enforcement talents to be not only familiar with macro-economics but also understand industrial development; not only master the domestic market situation, but also have insight into international trends; and not only know the rules of law but also be proficient in international trade. We will strengthen training and international communications, and promote the construction of the learning and working mechanism of “learning by doing” and “doing by learning.” We will promote the establishment of a talent pool for anti-monopoly law enforcement, and build an anti-monopoly law enforcement team with exquisite skills, excellent styles, and strict disciplines.

Fifth, we will deepen international communication and cooperation in competition policy and anti-monopoly law enforcement. We will monitor the development of economic globalization, adapt to the expanding trend of China's opening-up, and expand the scope of international cooperation in the anti-monopoly area. We will focus on strengthening cooperation with the “One Belt, One Road” countries in the anti-monopoly area, and jointly cope with the competition risks and challenges in the global market. We will deepen the cooperation with mature market economy countries, strengthen the construction of the cooperation mechanisms with other anti-monopoly law enforcement agencies, further broaden the areas of cooperation in case law enforcement, and constantly enrich the content of cooperation. We will pay more attention to participating in the construction of multilateral and bilateral international competition rules, strengthen the consultation and dialogue with other anti-monopoly law enforcement agencies, and promote international coordination on competition rules.

Dr. Zhang: Please introduce the typical cases and experiences of SAMR in anti-monopoly law enforcement since its establishment.

DG Wu: Since the establishment of SAMR, its functional advantages in unified anti-monopoly law enforcement have been fully developed. In 2018, we handled and closed 85 monopoly cases, reviewed and closed 468 applications for concentration of undertakings, and approved four significant transnational mergers and acquisitions with additional conditions, including Bayer's acquisition of Monsanto, the merger of Essilor International and Luxottica Group, the merger of Linde AG and Praxair, and United Technologies Corporation's acquisition of Rockwell Collins. The anti-monopoly work of SAMR has been carried out in an orderly manner, and the anti-monopoly law enforcement talents gather together rapidly, which effectively guarantees the realization of the target of the institutional reform and provides more optimized, coordinated and efficient anti-monopoly law enforcement.

When carrying out the anti-monopoly work, we will insist on several principles in the long run, which will guide our enforcement actions throughout the law enforcement efforts. **First, following the principle of fairness and justice.** All people are equal before the law. It is the important connotation of ruling the country by law and the basic requirement of administration by law to guarantee the fair participation of all types of market entities in the market's competition and protect the legitimate rights and interests of participants according to law. **Second, following the concept of law enforcement for people.** To safeguard the legitimate rights and interests of consumers is to safeguard the interests of the people, which also reflects the principle of “sticking to the principle that people are the center” in the anti-monopoly work. **Third, insisting on the position of open cooperation.** Anti-monopoly is a common rule in market-economy countries. Open cooperation meets the needs of economic globalization and the internationalization of enterprise competition. It also represents a future development trend. **Fourth, following the spirit of being professional and efficient.** Professionalism and efficiency is the embodiment of law enforcement, and was also an important factor for earning international reputation and respect in recent years, which is worth adhering to.

Dr. Zhang: At last, please share with us the prospects for future work of SAMR.

DG Wu: Next, we will take institutional reform as an opportunity, focus on strengthening the fundamental role of competition policies, create a fair competition system, actively promote anti-monopoly law enforcement, and safeguard market competition order and consumers' interest.

First, we will further improve the anti-monopoly law enforcement system with Chinese characteristics. We will focus on an anti-monopoly law enforcement system which unifies law enforcement responsibilities, optimizes the layout of functions, improves the law enforcement authorization system, and is authoritative, unified, professional, and efficient. We will further improve the ability and level of the law enforcement team, maintain the integrity of the law enforcement team, and uphold fair competition in the market.

Second, we will further strengthen the fundamental role of competition policies. We will strengthen the fundamental role of competition policies and improve the competition policy system. We will promote the amendment of the Anti-Monopoly Law and the supplementary laws, and improve the anti-monopoly legal system. We will issue and implement anti-monopoly guidelines to further improve the transparency and predictability of law enforcement. We will implement a comprehensive fair competition review, pay equal attention to cleaning up the existing regulations and elaborating the new regulations, and improve the effectiveness of the fair competition review. We will strengthen the evaluation of market competition and the construction of the anti-monopoly database, and constantly strengthen the basis of law enforcement and intellectual support.

Third, we will further strengthen anti-monopoly law enforcement. We will make overall use of prevention and supervision in process and afterwards to create a market environment of honesty, trustworthiness and fair competition, and enhance the international competitiveness of China's business environment. We will uphold the consumers' interests, strengthen law enforcement in people's livelihood, and better serve the people's needs for a better life. We will stop and correct all kinds of abuse of administrative power to exclude or restrict competition according to the law, and promote the formation of a unified national market. We will uphold fair and impartial law enforcement, treat all types of enterprises equally, and guarantee the fair participation of all types of market entities in the market.

Fourth, we will further deepen international cooperation and communication in anti-monopoly law enforcement. We will strengthen the construction of cooperation mechanisms with other anti-monopoly law enforcement agencies, strengthen bilateral and multilateral negotiations on competition policies and anti-monopoly law enforcement issues, and promote the construction of a global competition governance system. We will strengthen the communication with developing countries, promote international cooperation with "One Belt, One Road" countries, and jointly cope with the competition risks and challenges in the global market. We will strengthen our capacity in international cooperation and communication, learn from other agencies, and improve our law enforcement capability.

Fifth, we will further promote the wide spread of the competitive culture. We will promote the construction of the enterprise compliance system, advocate competition in the industries, and promote the dissemination of the competitive culture. We will continue to enhance the awareness of competition laws of market participants and the public, promote the recognition of the fair competition spirit and the innovative development concept in the whole society, and create a good external environment for anti-monopoly law enforcement. We will promote the construction of the expert consultation system and the new anti-monopoly think tanks with Chinese characteristics, and build important think tanks and platforms with international influence.



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