ADVANT Beiten

LEGAL DIGEST

ANTITRUST REGULATION

MARCH-APRIL 2026

Русская версия

AGENDA

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EU

EU AND NATIONAL GOVERNMENTS: FOREIGN INVESTMENT CONTROL

The revisions to the EU framework for screening foreign investments have been agreed and await publication. We will have more and stricter EU-wide harmonized rules. Nonetheless, the ultimate control rests under the EU Treaties with 27 national governments.

EU AND NATIONAL GOVERNMENTS: STATE AID CONTROL

The European Commission proposed temporary adjustments to the EU State aid framework in reaction to the energy crisis, especially for the most exposed sectors, including fisheries, agriculture and shipping, as well as greater flexibility for energy-intensive industries. However, it will not give EU governments free rein to spend as they would like to, allowing only targeted relief.

EUROPEAN COURT OF JUSTICE: FINAL DECISION ON AIRFREIGHT CARTEL

Antitrust proceedings can last a quarter of a century. The ECJ rendered on 26 February 2026 the final judgment on the airfreight cartel that dates from the beginning of this century, prompted a Commission decision and fines in the year 2010 and lengthy court proceedings as the carriers contested having coordinated surcharges on air cargo services between December 1999 and February 2006.

EUROPEAN COMMISSION: HIERARCHY RENEWED AFTER OLIVIER GUERSANT RETIREMENT

The new Director-General of DG Competition is known: Anthony Whelan is an Irish-educated lawyer with a strong interest in digital issues. His latest position was overseeing State aid control. We do not expect fundamental changes to competition control under his watch.

EUROPEAN COMMISSION: TECHNOLOGY TRANSFER BLOCK EXEMPTION REGULATION

The European Commission adopted the revised Technology Transfer Block Exemption Regulation ("TTBER") and Guidelines on the application of

Article 101 of the Treaty to technology transfer agreements, replacing the rules that have been in place since 2014.

EUROPEAN COMMISSION: EU MERGER CONTROL REMAINS ON THE AGENDA

There is no appetite inside the European Commission and at Commissioner level for stark changes to merger control, speak loosening of criteria, as recent remarks from Teresa Ribeira and Anthony Whelan make clear. Commissioner Ribera emphasized that the authority needs safeguarding from "political intrusion".

CHINA

PRICING PRACTICES IN THE AUTOMOTIVE INDUSTRY

On 11 February 2026, the State Administration for Market Regulation (hereinafter "**SAMR**") issued the *Guidelines on Compliance for Pricing Practices in the Automotive Industry* (Chinese: 汽车行业价格行为合规指引). The Guidelines represent the first systematic regulatory delineation of pricing compliance obligations across the entire automotive production and sales chain, from manufacturers to dealers, as a legislative response to the phenomena of "involuntary competition".

Article 10 of the Guidelines explicitly prohibits automakers from selling below production cost — defined for the first time to include manufacturing costs alongside period expenses such as administrative, financial, and selling costs — through methods which include discounts, subsidies, debt-for-asset swaps, and over-shipment with under-invoicing. Article 20 extends this prohibition to the dealer level, thereby bringing the full downstream price transmission chain within the regulatory perimeter.

The Guidelines also address seven categories of promotional and pricing conduct carrying considerable legal risk, including deceptive pricing language, false labelling of limited-time discounts, failure to honour pricing commitments, and advertising of unavailable low-priced products. With respect to in-vehicle software monetization, the Guidelines require that where a feature is offered with a free trial period, the duration and subsequent charges must be disclosed in advance, and differentiated value-added functions may not be charged without clear prior notification.

Nonetheless, market participants appear to be exploring regulatory arbitrage through financial instruments: shortly after the Guidelines' release, several automakers — including Tesla and Xiaomi — launched ultra-low interest financing plans, signalling a potential shift from direct price competition to competition via financial terms, a vector not expressly addressed by the current Guidelines. Practitioners advising automotive clients operating in the PRC should note that the Guidelines, while not formally amending the *Anti-Monopoly Law* or the *Pricing Law*, introduce compliance benchmarks that are likely to inform SAMR's enforcement posture in pricing-related investigations going forward.

RECENT CASE LAW: PHARMACEUTICS

On 28 February 2026, SAMR conducted a public hearing in connection with an ongoing investigation into four pharmaceutical companies for alleged abuse of market dominance relating to active pharmaceutical ingredient (hereinafter "**API**") and injection markets. The conduct under scrutiny reportedly involves the imposition of unfair high prices and/or refusal to deal in the supply of APIs, with potential knock-on effects on the availability of essential medications in the domestic market. The case carries notable procedural history: in July 2025, SAMR had already prohibited and required the unwinding of a below-threshold acquisition involving two of the same parties on account of their market dominance and indications of abusive conduct in the same product markets — the only such prohibition in SAMR's enforcement history to date.

The pharmaceutical API sector has emerged as a sustained enforcement priority for SAMR, and this case reinforces that dominance-related risks in the sector extend well beyond transaction review. Dominant suppliers of pharmaceutical raw materials should ensure that pricing and supply terms are non-discriminatory, commercially justifiable, and capable of withstanding regulatory scrutiny — particularly where the affected products have public health relevance. Critically, the willingness to unwind a completed acquisition and then pursue a separate abuse investigation against the same parties underscores SAMR's readiness to deploy its full enforcement toolkit across both merger control and abuse-of-dominance channels in tandem.

REVISED COMPLIANCE FRAMEWORK FOR INTERNET PLATFORMS

On 28 January 2026, SAMR issued the *Anti-Monopoly Compliance Guidelines for Internet Platforms* (Chinese: 互联网平台反垄断合规指引), providing dedicated anti-monopoly compliance guidance for platform operators across China. The Guidelines are non-mandatory but set out a comprehensive framework covering risk identification across four areas — monopolistic agreements, abuse of market dominance, concentrations of undertakings, and abuse of administrative power — together with risk management procedures and compliance safeguard mechanisms.

The document introduces eight practical risk examples, addressing conduct such as algorithmic collusion between competing platforms, "pick-one-of-two" exclusive dealing, below-cost sales through excessive subsidies, "lowest price on the entire network" requirements, and algorithm-driven discriminatory treatment, among others. Notably, the Guidelines dedicate specific provisions to algorithm screening, encouraging platforms to conduct targeted monitoring of pricing algorithms, recommendation systems, and ranking logic, and to establish deviation-correction mechanisms with full audit trails.

Platform operators — including those with cross-border operations touching the Chinese market — should treat these Guidelines as an indicator of heightened regulatory expectations, especially for the near future. The SAMR's emphasis on data and algorithmic transparency, penetration of compliance obligations across headquarters, branches, and controlled subsidiaries, and the availability of compliance incentives in enforcement proceedings all point toward a more structured and proactive internal governance standard than general compliance programmes typically afford.

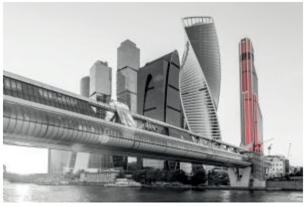
SAMR'S 2025 CASE REVIEW STATISTICS

SAMR has recently published its 2025 merger review statistics and introduced new internal efficiency benchmarks. SAMR concluded the review of 706 cases in 2025, representing a year-on-year increase of 9.8%. Average case acceptance time stood at 17.9 days overall (15.4 days for simple cases), and average review time from acceptance to closure was 26.8 days (18.2 days for simple cases). SAMR also disclosed the internal implementation of a "Double 20" target — 20 days each for acceptance and review of simple cases — alongside a tiered "30–60–90 days" system for non-simple cases. SAMR also announced that it had exercised its below-threshold call-in power for the first time in the internet platform sector, requiring a platform enterprise to file notification for its acquisition of an online order management service provider despite the transaction falling short of statutory turnover thresholds.

Subsequently, on 23 March 2026, SAMR announced plans to expand its entrustment system for simplified-procedure merger reviews - which had been made permanent as of August 2025 across five provincial administrations - by adding three further regional authorities and strengthening its own oversight of the delegated review process, partly in support of regional development priorities in western and northeastern China.

These developments carry significant practical implications. The pre-acceptance phase — where no statutory clock runs — remains the main bottleneck, and the quality of the initial filing continues to be decisive.

More structurally, these are signals that SAMR is now actively deploying its call-in power beyond the tech hardware and pharmaceutical sectors. The expansion of the provincial entrustment network, combined with enhanced central oversight, suggests a maturing decentralised review architecture that may, over time, increase both capacity and geographic sensitivity in SAMR's merger control work.



EEU / RUSSIA

NEWS/AMENDMENTS TO LEGISLATION

Control over foreign investments in strategic sectors

A law was signed in March 2026 which expands state control over the transactions of foreign investors associated with lines of business of strategic importance for the state (hereinafter "**strategic sectors**").

The Law adds in particular to the list of lines of business in strategic sectors activities involving the use of subsoil plots containing commercial minerals and rare-earth metals located on the territory of one constituent entity of the Russian Federation or on the territories or two or more constituent entities of the Russian Federation, activities involving the production of fish products if revenues account for 50% of more of the total revenues of the market participant, and if the aggregate value of its assets (group assets) exceeds RUB 800 million.

As a result, any such transactions require the mandatory preliminary approval by the Government Commission of Control of Foreign Investments in the Russian Federation.

In the opinion of the Federal Antimonopoly Service of Russia (hereinafter "**FAS of Russia**"), the amendments are aimed at increasing control over foreign investors. The key amendments will enter into force from 7 June 2026.

KEY CASE

Supreme Court of the Russian Federation: the sale of a generic drug prior to the expiry of the term of the patent deadline constitutes bad-faith competition

A foreign company - the rightsholder – received a Eurasian patent for a pharmaceutical substance, pharmaceutical products, and a method of their use, whose term expired on 30 June 2025.

Prior to the expiry of the indicated term a Russian company introduced into civil commerce a medicine (generic drug) without the consent of the rightsholder. FAS of Russia declared such actions to be bad-faith competition and ordered that the company transfer the income obtained from the infringement to the state (over RUB 513 million ~ EUR 5.7 million).

The Russian company filed a claim with the court on declaring the decision and order of FAS of Russia invalid, the petition was satisfied by the court of first instance and upheld without variation by the courts of appeal and cassation. The courts concluded that the antitrust authority had not established the fact of use of each patent feature and had not proved the competition between the patent holder and the infringing party.

The Russian Supreme Court overturned the lower court orders and dismissed the petition of the Russian company. In so doing, it stated the following:

- The courts drew the mistaken conclusion that qualification of the actions of companies as bad-faith competition is contingent on establishing the existence of competitive relations directly between the infringer of the exclusive rights and the patent holder. The fact of harm inflicted on the interests of the rightsholder, which may operate on the market through official distributors, is sufficient.

- The estoppel principle should be applied: the conduct of the Russian company was inconsistent, it denied using the patent, while sending offers to conclude a licence agreement and filing a claim with the court on granting a compulsory licence to the patent of the foreign company.

In April 2026 the Russian company submitted a supervisory appeal to the Presidium of the Supreme Court of the Russian Federation.

ADVERTISING

Position of FAS of Russia on the admissibility of advertising in YouTube and Telegram

In March 2026 FAS of Russia declared that it was inadmissible not only to advertise in social network regarding which access is restricted by virtue of Russian legislation, but also in social networks, regarding which a number of measures have been applied to restrict access.

For example, such restrictions have been imposed by the Federal Service for Supervision of Communications, Information Technology and Mass

Media (Roskomnadzor) in respect of YouTube since 2024, and Telegram – since the end of 2025. At the same time, neither YouTube, nor Telegram had been included in a special register of online information resources to which access is restricted, as well as in other resources.

Subsequently, FAS of Russia reported in addition that market participants would need additional time to adapt and switch to other advertising channels. Accordingly, a transitional period is required in respect of advertising in Telegram and YouTube until the end of 2026, and penalties will not be imposed for advertising [on these channels] during this period.

ANTITRUST REGULATION IN THE EURASIAN ECONOMIC UNION

Clarifications of the Court of the Eurasian Economic Union (EAEU) on the powers of the Eurasian Economic Commission (EEC)

The EAEU Court issued an advisory opinion which addresses the issue of the ability of the Eurasian Economic Commission to request information on its own initiative from companies.

Taking account of the Treaty on the Eurasian Economic Union dated 29 May 2014, the Protocol on Common Principles and Rules of Competition, the EAEU Court clarified that EAEU Law does not limit the powers of the Eurasian Economic Commission to request information at its own initiative within the framework of its control over compliance with the competition rules on cross-border markets.

Liability for the failure to submit information through the imposition of a fine is possible when the submission of such information is an obligation under EAEU Law and only within the framework of the stages of control exercised by the Eurasian Economic Commission: consider an application, conduct an investigation, consider a case, consider the possible issue of a warning.

CIS / UZBEKISTAN

NEWS

Propane prices fall by 21% as a result of operational measures by the Committee

A special commission of the Competition Promotion and Consumer Protection Committee has initiated a case regarding overcharging for propane by business entities engaged in propane imports.

The grounds for initiating the case included instances of unjustified increases in the starting prices for commodity exchange trading in propane in November–December 2025 and January 2026, as well as the artificial restriction of the amounts delivered for exchange trading.

After considering the case, the Committee took the appropriate measures, which resulted in propane prices falling by 21%.

In addition, the special commission of the Committee found 31 entities guilty of breaching the requirements of the Competition Law and imposed financial penalties of UZS 28.9 billion on the amount traded over the period of the breach, and also confiscated the unlawful proceeds (UZS 34.1 billion) to the budget of the Republic.
Details

VAR model implemented in econometric analysis

Until recently, the Competition Policy and Consumer Rights Research Centre of the Competition Promotion Committee conducted its market analysis using an ARIMA (Autoregressive Integrated Moving Average) model, which was used to assess price behaviour and short-term market trends. Starting from March 2026 the Centre has transitioned to a more advanced level of analysis: a **VAR** (Vector Autoregression) model has been implemented in its econometric analysis, making it possible to forecast market movements more accurately. The use of VAR models will raise the Centre's analytic work beyond simple statistic assessment and allow it to draw deeper, scientifically-based conclusions.
Details

ADVERTISING

Financial penalties imposed on businesses breaching the advertising law

In accordance with Resolution No. 428 of the Cabinet of Ministers of the Republic of Uzbekistan dated 31 August 2023, the installation of outdoor advertising and information facilities (structures) requires the receipt of an advertising site permit using the information system of the Unified Interactive Government Services Portal.

Monitoring and studies conducted by a regional office of Competition Promotion Committee revealed instances of the unauthorised installation of large-scale outdoor advertising by several economic entities.

Despite repeated warnings, some of the businesses did not comply with orders, and accordingly financial penalties were imposed.
Details

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