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Rethinking Competition Policy in China's Digital Markets: The Shift From Fair Play to Fair Deal

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In today's digital economy, the rapid development of platform economies is posing new challenges to traditional regulatory models. Foreign platform regulations, represented by those of the European Union, in fact protect three types of legal interests: the public interest, the legitimate rights and interests of competitors, and the legal interests of trading partners. They also balance two different types of legal relationships: competitive relationship and transactional relationship. This provides useful lessons for the healthy and orderly development of platform economies. China's current Anti-Monopoly Law and Anti-Unfair Competition Law mainly focus on protecting competitive relationships. Although the E-Commerce Law does cover transactional relationships to some extent, it is limited by the context of its time and cannot keep up with the rapid development of new types of online services in the mobile internet era. To better protect the legitimate rights and interests of parties in platform economy transactions and to promote the sustainable and healthy development of platform economies, it is necessary to further highlight the principle of protecting fair trading in the general provisions of the Anti-Unfair Competition Law. Based on transactional relationships, all platform online transactions and services should be included in a comprehensive regulatory system. A more scientific and rational legal framework for platform regulation should be built to promote high-quality development of China's platform economy on the track of the rule of law.

Keywords: transactional relationships, platform regulation, E-Commerce Law, Anti-Monopoly Law, Anti-Unfair Competition Law

Introduction

Over the past decade or so, with the development of the internet and technology, mobile internet applications centered around platform companies have brought convenience and prosperity to the world. At the same time, new issues have emerged between platform companies themselves, between platform companies and the operators and consumers within their platforms, and between the online and traditional societies. These issues include the ownership of rights, the division of responsibilities, and the balance of interests. They need to be regulated effectively and promptly by the government, and they also need to be accurately addressed by the constantly evolving legal system.

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In the global trend of comprehensive regulation of platform companies, the EU and the US have each carried out legislative and law enforcement practices according to their own different situations in the development of platform economies. The Chinese government's market supervision departments have also taken action in a timely manner to help the platform economy break away from low-level competition and get back on the track of innovation-led development.

Currently, the platform economy is returning to normal regulation, and it is necessary to reposition and sort out the remaining problems in this field. From a global perspective, the EU's Digital Services Act and Digital Markets Act have established a legislative paradigm for strong regulation in the platform economy, which has become the focus of research and discussion among domestic regulators and academia. There are many studies considering the transplantation and reference of relevant content. However, it should be noted that the EU's relevant legislation for the overall regulation of the platform economy covers almost everything, including data security, privacy protection, content compliance, competition regulation, and consumer rights. Its specific law enforcement is also led by the European Commission. Therefore, in the process of transplanting or referring the law, it is necessary to distinguish and select according to China's own legislative and law enforcement models, especially at the market supervision level. It is important to distinguish between the competitive and transactional relationships behind platform behaviors and choose the appropriate law to respond, so as to better balance the regulation and development of China's platform economy.

Distinguishing Competitive Relationships From Transactional Relationships

Based on legislative and enforcement practices in platform economy regulation across various countries, oversight in this field needs to address not only traditional competitive relationships but also transactional relationships.

The Triple Legal Interests Underlying the Regulation of Market Conduct

For a long time, due to differences in legal philosophies, systems, and institutions across countries, the legal bases for public authority intervention in general commercial activities and for restraining improper conduct by market entities have varied. These include laws such as the Antitrust Law (USA), Competition Law (EU), Act Against Unfair Competition (Germany), Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Japan), and Fair Trade Act (South Korea), among others. In domestic research and reference of these laws, they are collectively referred to broadly as "competition law", a subset within the legal domain of economic law. Although these laws all regulate the business activities of market entities, their targets and objectives differ. Therefore, they must be distinguished from the perspective of protected legal interests. This distinction reveals that the legal interests protected by all the aforementioned competition laws fall into three levels:

Protection of public interest: This legal interest is epitomized by Anti-Monopoly Law. It emphasizes enhancing economic efficiency, social welfare, and the overall interests of consumers by safeguarding the competitiveness of an entire industry. It adopts a mid-to-macro perspective covering the whole industry or even across industries, maintaining the normal functioning of the market economy itself. Hence, Anti-Monopoly Law is often called the "economic constitution"—a fundamental legal norm for maintaining market competition order, consistently emphasizing the protection of competition itself, not individual competitors.

Protection of legitimate rights and interests of competitors: This legal interest emphasizes fairness in competition. The role of the enforcer, as a referee, is primarily to prohibit competitors from using "underhanded" or "harmful" tactics in their rivalry, issuing warnings promptly—essentially, anti-unfair competition in the strict sense. This can be viewed as a remedy against infringing acts. In fact, Germany's enactment of the Act Against Unfair Competition in 1909, which prohibited acts like commercial defamation, false advertising, and trade secret infringement, was based on this very concept. Although consumer rights might also be indirectly harmed during such violations, the primary purpose of the law remains the protection of competitors' interests.

Protection of legitimate rights and interests of transaction counter parties: This legal interest emphasizes providing tilted protection for the legitimate rights and interests of operators or consumers in a relatively weaker position within specific transactions, going beyond the principle of autonomy in civil and commercial law. This also constitutes a form of public authority intervention to remedy infringements. It aims to balance the negotiating power of both parties by imposing higher responsibilities and obligations on the stronger party, or to provide additional remedies for significantly unfair transactions.

Competition Law Governs Competitive Relationships

As previously mentioned, the objective of competition law based on international experience is to protect three types of legal interests. However, these three interests reflect two distinct types of relationships: One is the competitive relationship between competitors, and the other is the transactional relationship between parties to a transaction (e.g., buyer-seller, multiple contracting parties).

Anti-Monopoly Law governs the competitive relationships between market entities. The "hard-core cartels" per se illegal under the Anti-Monopoly Laws of various countries directly illustrate this focus. The participating firms, which are competitors, agree on fixing prices, output, or market sharing—actions aimed at eliminating or restricting competition. Hence, they are prohibited. While vertical monopoly agreements are formed between a market entity and its trading partners (a transactional relationship), their purpose is still to interfere with the competitive dynamics in the market where the trading partners operate. The focus is not on balancing interests between the entity and its immediate partners. Most abuses of market dominance manifest as transactional conduct.[1] However, these are not penalized based on the act itself. They are deemed illegal only when they cause the effect of eliminating or restricting competition in the anti-monopoly sense. The ultimate test is whether the competitive relationship in the relevant market is severely disrupted, not whether the specific trading partner suffers actual loss.

The very name Anti-Unfair Competition Law indicates its primary focus is on regulating competitive relationships between market entities. However, due to the relatively late establishment of China's socialist

[1] Abuse of Dominant Market Position in China's Anti-Monopoly Law: Article 22 of China's Anti-Monopoly Law prohibits the following abusive practices by dominant market players, all of which reflect the transactional relationship between dominant operators and their counterparts:
(i) Selling goods at an unfairly high price or buying goods at an unfairly low price;
(ii) Selling goods below cost without a legitimate reason;
(iii) Refusing to engage in transactions with counterparties without a legitimate reason;
(iv) Limiting counterparties to transact only with themselves or with designated operators without a legitimate reason;
(v) Bundling goods or imposing other unreasonable trading conditions during transactions without a legitimate reason;
(vi) Discriminating in transaction prices or other trading conditions against counterparties with similar conditions without a legitimate reason.

market economy and the corresponding lag in economic law development, the Anti-Unfair Competition Law enacted in 1993 responded to pressing issues at the time, drawing partly from the German model. This included regulating prize promotions to address social problems arising from a nationwide "prize promotion craze". Although Germany's Act against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, UWG) prohibits certain unfair prize promotions to protect competitors from losing business opportunities[2], in China's enforcement practice, the prohibition has often been applied more with consumer protection in mind. Consequently, the penalties prescribed for such violations are significantly lighter compared to other competition-harming acts.[3] Furthermore, China's Anti-Unfair Competition Law's rules against false advertising also strongly emphasize consumer rights protection. In practice, both unfair prize promotions and false advertising can involve deception of consumers. Their inclusion under the Anti-Unfair Competition Law, due to the unfairness of the methods used, has historical and practical reasons in the Chinese context.

Transactional Relationships Are a Key Focus of Platform Regulation

Typically, transactional relationships are governed by civil and commercial laws. The parties involved adhere to the principle of autonomy of will, assuming agreed-upon rights and obligations, with no need for intervention by government regulatory bodies.

However, with the widespread adoption of mobile internet applications, platform companies now serve user bases on the scale of tens or hundreds of millions, far exceeding the scope of traditional enterprises. The agreements formed between platform companies and their counterparties (users/businesses on the platform) have also evolved beyond standard civil/commercial contracts, acquiring a public character.

In particular, while providing convenient services for consumers' daily lives, platform companies have developed overwhelming bargaining power relative to both consumers and the businesses operating on their platforms. Despite some external competitive pressures, platforms can leverage data, algorithms, technology, and platform rules to dictate all transaction terms within their ecosystem. For consumers and most businesses on the platform, accessing the platform's services often means accepting all its stipulated conditions.

Furthermore, throughout the service process, a significant information asymmetry persists between the platform and its users/businesses. Platforms may exploit this asymmetry and their technical capabilities to engage in practices detrimental to the interests of consumers and platform-based businesses.

As platform applications become indispensable tools in daily life, the absolute power of platform companies within these transactional relationships is further amplified. This necessitates the intervention of public authority to protect the fundamental rights of consumers and platform-based businesses in their dealings with these dominant platforms.

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[2] Unfair Competitive Practices Under Germany's Act Against Unfair Competition: Article 4 of Germany's Act Against Unfair Competition lists the following unfair competitive practices:
(5) Failing to clearly and unambiguously state the conditions for participation in promotional contests of an advertising nature;
(6) Conditioning participation in promotional contests on the purchase of goods or the use of services, except where the nature of the contest inherently relates to the goods or services.

[3] Penalties for Violations of China's Anti-Unfair Competition Law: Article 27 of China's Anti-Unfair Competition Law stipulates that "If an operator conducts promotional sales in violation of Article 11 of this Law, the supervisory and inspection department shall order it to cease the illegal act and impose a fine ranging from 50,000 to 500,000 yuan". This is significantly less severe compared to penalties of millions of yuan for other types of violations.

The Practical Significance of Emphasizing Transactional Relationships

While much of the global regulatory and academic discussion on the platform economy focuses on platform conduct itself, without distinguishing between competitive and transactional relationships, making this distinction is essential in the context of China's specific realities.

The Specificity of Industry Development

Platform economy development can be viewed in two spheres: the global market and the Chinese market. Globally, the market is largely dominated by a few U.S. tech platforms, with low business overlap among them. Each major segment is typically dominated by a single player.[4] Consequently, regulators in the U.S. and particularly the European Commission primarily approach platform regulation from an anti-monopoly perspective, with the EU using strong anti-monopoly enforcement to create space for its own digital industries.

In contrast, China's domestic market, after an initial phase of segmentation similar to the U.S., evolved differently. With the domestic user base reaching saturation, platforms aggressively sought new growth areas. Benefiting from open infrastructure (like payments and logistics) and free flow of technology and talent, Chinese platforms often operate across multiple sectors—e-commerce, finance, local services, entertainment, social media—engaging in fierce, direct competition with each other. This creates a much more intensively competitive landscape compared to global markets. Here, the probability of unfair competitive practices and actions harming counterparties in transactions is higher than issues of pure monopoly. Therefore, China's regulatory focus for the platform economy should lean more towards governing transactional relationships.

The Specific Target of Harmful Conduct

The ongoing revision of China's Anti-Unfair Competition Law directly addresses new issues in the platform economy.[5] It draws heavily on international research and practices to prohibit or regulate behaviors like:

"Pick-One-of-Two" (Exclusive Dealing): Forcing a counterparty to sign an exclusive agreement.

"Big Data Price Discrimination": Using algorithms and user data to impose unreasonable differential treatment or restrictions on transaction terms.

"Most-Favored-Nation" Clauses: Unreasonably restricting product pricing, sales targets, regions, timing, or promotional activities.

Interfering with user choice: Utilizing data, algorithms, technologies, platform rules, etc., to obstruct or disrupt the normal operation of network products or services legally provided by other business operators by influencing user choices or through other means.

The key point is that these actions are executed by platforms based on their relative dominance position within a transactional relationship. Their ability to impose such terms stems from the dynamics of that specific transaction, not necessarily from a dominant position in competitive rivalry. Regardless of a platform's standing among its competitors, it can leverage its superior bargaining power over a specific user or business on its

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[4] For example, Google in search, Amazon in e-commerce, Facebook/Meta in social media, Apple in hardware or software ecosystems.

[5] The Explanatory Note on the "Draft Amendment to the Anti-Unfair Competition Law of the People's Republic of China (Draft for Public Comments)" released by the State Administration for Market Regulation clearly points out the necessity of amending the law: "With the continuous emergence of new economies, new business forms, and new models, new types of unfair competition behaviors implemented through data, algorithms, and platform rules urgently need to be regulated".

platform to gain undue advantage. This power is tied to the transaction itself, not the platform's overall market size or strength.

For example, a platform's ability to force an "exclusive dealing" agreement on a business operating on it derives from the actual power imbalance within that specific transactional relationship. In fact, powerful brands or "top influencers/streamers" might even hold a superior transactional position, demanding more favorable terms from the platform.

Take differential treatment (like price discrimination). Even if a dominant platform charges different prices based on a user's payment ability or habits, this primarily constitutes a potential infringement within the transactional relationship. It does not necessarily harm competition in the market. Only if such treatment is based on competitive dominance and its effect is to harm market competition, would it qualify as monopolistic conduct under Anti-Monopoly Law. Economically debatable practices like "price discrimination" often lack the effect of excluding or restricting competition; they might even drive users to competitors.

Moreover, unlike violations under the Anti-Unfair Competition Law that directly harm competitors[6] (e.g., commercial defamation, confusion, false advertising) or consumers, the behaviors listed above directly harm the immediate rights and interests of transactional counter parties (businesses and consumers on the platform). Anti-Monopoly Law can only correct actions by dominant firms that exclude/restrict competition. It offers no remedy for the actual losses suffered by counter parties, especially when inflicted by platforms without market dominance.

Therefore, platform regulation should focus precisely on ensuring fairness within transactional relationships, protecting the legitimate rights of businesses and consumers on platforms. Its primary goal should not be safeguarding fair competition between platforms based on their competitive relationships.

Coordinating Relevant Legislation

China's framework for market regulation began with the 1993 Anti-Unfair Competition Law, enacted during the early stages of the market economy and legal system development. This law broadly covered areas like unfair competition, administrative monopoly, predatory pricing, tying, and bid-rigging, effectively protecting the rights of both competitors and consumers. Subsequent laws, including the Consumer Rights Protection Law, Advertising Law, Price Law, Bidding Law, and Anti-Monopoly Law, further refined the legal system for market oversight. However, this has also led to some issues of legislative coordination.

Taking competition law as an example, behaviors like predatory pricing and tying, stipulated in the 1993 Anti-Unfair Competition Law, overlapped in form with the abuse of market dominance prohibited by the later Anti-Monopoly Law. Yet, the legal interests these two laws protect are fundamentally different. The Anti-Unfair Competition Law directly protects the interests of competitors. Competitors could seek timely relief through litigation or administrative enforcement upon the occurrence of listed violations. In contrast, the Anti-Monopoly Law protects the competitive landscape itself. Establishing a violation requires meeting four key elements: defining the relevant market, proving the entity's market dominance, identifying the specific prohibited conduct, and demonstrating harm to competition. Even after a violation is confirmed, administrative penalties are seen as compensation for the industry's overall interest. Individual competitors harmed by the specific conduct do not

[6] The provisions in the Anti-Unfair Competition Law concerning illegal acts such as commercial defamation, commercial confusion, false advertising, and trade secret infringement are all related to the direct impairment of the interests of competitors.

receive direct compensation. The deletion of relevant clauses from the Anti-Unfair Competition Law following the enactment of the Anti-Monopoly Law has thus left competitors' practical interests without effective protection.

Furthermore, China's economic laws are typically drafted under the leadership of government departments with relevant regulatory mandates. Constrained by departmental responsibilities, drafting often involves piecemeal amendments within existing frameworks, making it difficult to undertake comprehensive, cross-departmental planning. Additionally, as laws were enacted in different eras, each naturally aimed to protect both public interest and the individual interests of businesses and consumers. In pursuing these multiple objectives, a more systematic "top-level design" for competition law, or even market regulation law as a whole—one that clearly defines different protected objects—has been somewhat lacking.

Therefore, while drawing lessons from the EU's experience in platform regulation, China should first distinguish between competitive relationships and transactional relationships. It should clearly define the specific protected objects of each law to ensure coordinated and complementary application, leveraging the strengths of separate legislation.

The Anti-Monopoly Law should focus on protecting market contestability as its legislative goal, rather than protecting specific competitors or consumers.

The Anti-Unfair Competition Law should focus on protecting competitors' rights to fair competition.

If the Anti-Unfair Competition Law focuses on public interest, or the Anti-Monopoly Law focuses on the interests of specific competitors or consumers, it would hinder the clear distinction of specific harms caused by different behaviors, blur the boundaries of legal liability for violators, and contradict the original legislative intent behind having two separate competition laws.

As for protecting the fair trading rights of relatively weaker parties (businesses and consumers) in transactional relationships, this should not be the primary response of competition law.

Practical Considerations in Administrative Enforcement

In the current administrative enforcement practices within China's platform economy, there is an overemphasis on the harm to industry-level competition caused by platform operators. Conversely, direct protection and relief for the specific rights and interests of merchants operating on these platforms and consumers are not sufficiently addressed. Especially as China's anti-monopoly enforcement in the platform sector has shown results and competition between platforms intensifies, infringements on the rights of platform-based merchants and consumers are more likely to occur. It is therefore necessary to allocate administrative resources rationally and enhance the standard of administrative enforcement to better serve development.

Regarding the competitive relationship aspect of platform regulation, anti-monopoly enforcement, as a central government function, should consistently operate from the perspective of global competition in the digital economy. Its role is to promptly eliminate the negative effects of market monopolies and administrative monopolies, thereby promoting the healthy development of China's platform economy. Enforcement of the Anti-Unfair Competition Law should fully leverage its positioning at the county level and above, acting swiftly against specific actions that harm the interests of competitors and consumers. Given its grassroots enforcement nature, the Anti-Unfair Competition Law, when stipulating specific violations, should not mimic the Anti-Monopoly

Law by incorporating subjective elements. On the contrary, it should aim to minimize administrative discretion to the greatest extent possible. Even if this approach might lead to some oversights, affected parties can seek resolution through judicial channels. In fact, civil litigation under the Anti-Unfair Competition Law, particularly courts' application of its general principles clause,[7] has been effective in curbing unfair competition and providing individual relief, effectively filling regulatory gaps where administrative enforcement is bound by specific provisions.

In practice, China's platform regulation urgently needs enforcement at the county level and above to provide deterministic and timely protection for the rights and interests of platform-based merchants and consumers. Currently, functions such as price enforcement, advertising enforcement, online transaction oversight, and consumer rights protection, though housed within market supervision departments, are often divided among different internal units. Cross-departmental coordination in daily operations remains challenging. Therefore, there is a practical necessity to reassess and realign the regulatory responsibilities of government agencies from the perspective of overseeing platform transactional relationships.

Optimizing the Regulation of Transactional Relationships in the Platform Economy

Mobile internet technology and the platform economy represent a new productive force. This immense advancement in productivity brings creative disruption, breaking the previous social distribution of interests. Societal resources are increasingly concentrated towards the more efficient platform sectors, necessitating appropriate government intervention from the perspective of social fairness. However, it is important to recognize that in China's current platform economy, fairness in competition is largely ensured. The primary shortfall lies in insufficient protection of the specific, legitimate rights and interests of competitors and counterparties in platform transactions. Therefore, optimizing the regulation of transactional relationships within the platform sector is essential.

Clarifying and Improving Legislation

The Anti-Monopoly Law revised in 2022 explicitly states that "business operators shall not use data and algorithms, technology, capital advantages, platform rules, etc. to engage in monopoly conduct prohibited by this Law". This provides a principle-based response to regulating competitive relationships involving platforms. Concurrently, the Anti-Unfair Competition Law, revised and released by the State Administration for Market Regulation in 2025, also addresses new types of unfair competitive behavior in the platform sector.

As discussed earlier, both laws govern competitive relationships in platform regulation. To ensure effective linkage between them, the focus should be on their respective core protected legal interests. This will foster a cohesive system where central-level enforcement protects overall competition interests, and grassroots-level enforcement protects the individual interests of competitors. This is particularly important regarding the determination of illegality, where the distinction must be clarified between the effects principle used for assessing harm from anti-monopoly abuses and the per se illegality principle typically applied to unfair competition.

[7] Article 2 of the Anti-Unfair Competition Law stipulates that "Business operators shall, in their production and business activities, adhere to the principles of voluntariness, equality, fairness, and good faith, and comply with laws and business ethics". This provision is widely cited in judicial practice, where judges effectively fill the regulatory gaps that administrative enforcement cannot break through existing provisions by exercising their discretion.

Regarding the regulation of platform transaction behavior, China's E-Commerce Law, which took effect in 2019, provides detailed provisions on the respective responsibilities and obligations of e-commerce operators and e-commerce platform operators. It also establishes special protections for agreements between platform operators and the businesses/consumers on their platforms that go beyond the standard principle of autonomy in civil/commercial law.[8]

However, a significant limitation is that the National People's Congress's Financial and Economic Affairs Committee initiated the e-commerce legislation work in 2013, when the mobile internet was just emerging, and e-commerce was the primary form of commercial internet application. By the time the E-Commerce Law formally took effect, the mobile internet had already replaced the traditional web as the mainstream, and various business models of online applications had matured and flourished. E-commerce was no longer the sole internet business model capable of affecting the rights and obligations of counterparties. Various social, media, entertainment, and lifestyle service mobile apps had developed their own profit models and exerted substantial influence on the rights and interests of relevant parties, yet these transactions and platform operators were not brought under the regulatory scope of the E-Commerce Law.

Benefiting from long-standing national policies and measures supporting the healthy development of e-commerce, China's e-commerce market has achieved a high degree of openness and full competition. Platform operators in other sectors can now leverage mature supply chains, logistics infrastructure, and payment systems to offer e-commerce services. The E-Commerce Law's legislative goal of encouraging the development of the e-commerce industry has been largely realized. There is no longer a need to regulate e-commerce as a special domain separate from the broader platform economy.

Currently, supporting and encouraging the healthy development of the platform economy is a crucial measure for China to adapt to the digital economy era. Therefore, it is necessary to expand the scope of application of the E-Commerce Law to include all platform-based online service activities, transforming it into a foundational Platform Law. This law would encompass e-commerce and all other sub-sectors of the platform economy. Its legislative purpose should be to safeguard the legitimate rights and interests of all parties in the platform economy, regulate platform business conduct,[9] maintain market order, and promote the sustained, healthy development of the platform economy. This would provide the fundamental legal basis for regulating transactional relationships in the platform sector, filling the gaps left by competition law in protecting the legal interests of counter parties in transactions.

The newly revised and promulgated Anti-Unfair Competition Law of 2025 has responded to some extent by clearly stipulating, in Articles 13 to 15, restrictions on platform operators and large enterprises using data,

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[8] For example, Article 35 of the E-Commerce Law provides that "E-commerce platform operators shall not use service agreements, transaction rules, and technical means to unreasonably restrict or attach unreasonable conditions to the transactions, transaction prices, and transactions with other operators within the platform of operators within the platform, or to charge unreasonable fees to operators within the platform". Article 49 stipulates that "E-commerce operators shall not agree that the contract is not established after the consumer has paid the price through standard terms or other means; if the standard terms contain such content, the content shall be invalid".

[9] Due to the different platform operation models, some platforms that seem to provide free services in fact also obtain profits by using users. It is necessary to change the traditional transaction determination thinking and recognize that platforms providing free services also need to bear corresponding responsibilities and obligations.

algorithms, technology, and platform rules to engage in production and business activities, and explicitly outlining the legal consequences of abusing their dominance position.

At the level of protecting counter parties in transactions, the Anti-Unfair Competition Law makes specific provisions for unfair competition behaviors such as infringing on data rights and malicious transactions, further detailing various forms of malicious transactions. For example, it explicitly prohibits operators from unlawfully obtaining or using data legally held by other operators, as well as from abusing platform rules to engage in false transactions, false evaluations, or malicious returns targeting other operators.[10]

Additionally, the new Anti-Unfair Competition Law includes provisions addressing the issue of overdue payments to small and medium-sized enterprises (SMEs), specifying that large enterprises and other operators must not abuse their dominance position to impose clearly unreasonable payment terms, methods, conditions, or liability for breach of contract on SMEs, nor delay payments for goods, projects, or services owed to SMEs.[11]

However, although the newly revised Anti-Unfair Competition Law has taken significant steps in regulating transactional relationships, the existing provisions still leave room for further improvement. The current clauses primarily focus on prohibiting and regulating specific unfair competition behaviors, while the overall protection of transactional relationships—especially elevating the principle of fair trading to a higher legal level—has not yet been fully realized.

To more comprehensively safeguard the rights and interests of counterparties in transactions and prevent potential unfair trading practices in the platform economy, it is necessary to further clarify the principle of protecting fair trading in the general provisions of the Anti-Unfair Competition Law, establishing it as a fundamental legal requirement to be implemented throughout the enforcement of the law. This would not only provide clearer legal guidance for specific trading behaviors but also uphold the fairness and justice of market transactions at a broader level, offering a more solid legal foundation for the sustained and healthy development of the platform economy.

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[10] Article 13 of the Anti-Unfair Competition Law: Business operators who engage in production and business activities through the network shall comply with the provisions of this law.
Business operators shall not use data and algorithms, technology, platform rules, and other means to implement the following acts that hinder or disrupt the normal operation of network products or services legally provided by other business operators by influencing user choices or other means:
(1) Inserting links and forcibly redirecting targets in the network products or services legally provided by other business operators without their consent;
(2) Misleading, deceiving, or forcing users to modify, close, or uninstall the network products or services legally provided by other business operators;
(3) Maliciously implementing incompatibility with the network products or services legally provided by other business operators;
(4) Other acts that hinder or disrupt the normal operation of network products or services legally provided by other business operators.
Business operators shall not obtain or use data legally held by other business operators in an improper manner, such as fraud, coercion, bypassing or disrupting technical management measures, to the detriment of the legitimate rights and interests of other business operators and to disrupt market competition order.
Business operators shall not abuse platform rules to directly or instruct others to implement acts such as false transactions, false reviews, or malicious returns against other business operators, to the detriment of the legitimate rights and interests of other business operators and to disrupt market competition order.

[11] Article 15 of the Anti-Unfair Competition Law: A large enterprise or any other business shall not require a small or medium-sized enterprise to accept evidently unreasonable payment terms, methods, conditions, liability for breach of contract, or other transaction terms, or delay payments for goods, projects, or services to a small or medium-sized enterprise, by abusing its dominant position in terms of capital, technology, transaction channels, or industry influence, among others.

Reorienting Administrative Enforcement

China's platform economy is currently transitioning from a period of intense regulation to one of normalized oversight. This shift in regulatory approach requires, first and foremost, theoretical exploration and innovation in regulatory theory. Distinguishing between competitive relationships and transactional relationships in platform regulation enables a true grasp of underlying patterns and adherence to them. This effectively reduces uncertainty in administrative enforcement, paving the way for a more transparent, stable, and predictable regulatory environment that strengthens business confidence. Within market regulatory agencies, this distinction also facilitates a clearer delineation of responsibilities and powers among different departments, fostering synergistic collaboration for a stronger overall external regulatory impact.

In the specific enforcement actions within the platform economy, greater emphasis and resources should be placed on regulating transactional relationships. In competitive relationship enforcement, actions against monopolistic conduct, due to their significant societal impact, often attract high public attention and discussion, thereby commanding substantial enforcement resources. Furthermore, whether addressing anti-monopoly or unfair competition, specific cases typically involve adjusting interests between competitors. Both parties in such disputes generally possess the capability to actively participate, present full defenses, and engage in the process, whether in administrative proceedings or judicial litigation. Consequently, administrative agencies can afford to adopt a relatively more passive stance in such contexts.

In contrast, within transactional relationships, there is a substantial power imbalance between counterparties (e.g., consumers, small businesses) and the platform operators. Transactional counterparties, especially consumers, often have weaker capabilities to initiate administrative complaints or lawsuits, participate in proceedings, or bear the burden of proof. This situation particularly demands proactive intervention by administrative authorities. Agencies should take the initiative, assume necessary costs, investigate and penalize prominent infringement issues reported by consumers, and thereby achieve remedies and protection for individual consumer interests. This proactive approach helps curb platform operators' abuse of power and enhances the public's sense of benefit and security.

Moreover, administrative enforcement in the platform economy needs to pay closer attention to fair regulation. In competitive relationship regulation, the primary focus is often on large platform enterprises. However, in transactional relationship regulation, oversight must also extend to small and medium-sized platforms. While large platforms operate under the regulatory "spotlight" and incur higher compliance costs to ensure transactional fairness, some non-compliant practices may migrate to smaller platforms with lower compliance baselines. This can create regulatory "blind spots", potentially leading to negative externalities akin to "bad money driving out good". To prevent this from lowering the overall industry's compliance standards, regulatory oversight must be applied impartially and uniformly across platforms of all sizes.

Conclusion

Legal transplants within the field of competition law and the division of responsibilities among different administrative enforcement agencies have led to differing understandings of platform regulation in China over an extended period. This fragmentation has resulted in a complex regulatory environment where various legal frameworks and enforcement mechanisms coexist, sometimes leading to inconsistencies and ambiguities. This is

particularly evident in practical debates, such as whether legislation should incorporate the concept of "relative market dominance" and how to delineate the boundaries between Anti-Monopoly Law and Anti-Unfair Competition Law. These debates highlight the challenges in harmonizing different legal approaches and in defining clear regulatory boundaries, which are crucial for effective enforcement and compliance.

Returning to the fundamental objectives of platform regulation, it becomes clear that the protection required encompasses the public interest arising from the competitive mechanism, the legitimate competitive interests of market participants, and the fair trading interests of both businesses and consumers formed within transactional relationships. Effective platform regulation should not only promote fair competition but also ensure that the benefits of competition are realized by all stakeholders, including consumers who rely on platforms for goods and services. Consequently, the scope of regulation must extend beyond competitive relationships to include transactional relationships. This broader approach is essential to address the multifaceted nature of platform economies, where issues of competition and transactional fairness are often intertwined.

However, the protection of fair trading interests within transactional relationships remains the most significant weakness in China's platform regulation framework. Current regulations tend to focus more on competition aspects, leaving transactional fairness under-addressed. This gap can lead to imbalances in bargaining power and unfair practices that undermine the integrity of market transactions. There is an urgent need to address this gap through improvements in legislation and administrative enforcement. Strengthening the legal provisions related to fair trading practices and enhancing the enforcement capabilities of relevant agencies are critical steps to ensure that all aspects of platform activities are adequately regulated. By doing so, China can create a more balanced and comprehensive regulatory environment that supports both competition and fair trade, ultimately benefiting all market participants and consumers.

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