

**PRACTICAL GUIDANCE FOR COOPERATION ON INVESTIGATING ANTI-MONOPOLY
CASES BETWEEN THE DIRECTORATE-GENERAL FOR COMPETITION OF EUROPEAN
COMMISSION AND THE STATE ADMINISTRATION FOR MARKET REGULATION OF
P.R. OF CHINA**

2019

1. Pursuant to the Terms of Reference of the EU-China Competition Policy Dialogue signed between the Directorate-General for Competition of European Commission and the State Administration for Market Supervision of the People's Republic of China (hereinafter referred to as the "Sides") on 9 of April 2019, the Sides formulate this Practical Guidance for Cooperation in investigating Anti-Monopoly Cases which are subject to the investigation of both Sides.
2. Cooperation in investigating cases which are subject to the investigation of both Sides builds trust between the Sides' and their staff and is beneficial for the Sides, the investigated parties and third parties.
3. Cooperation increases efficiency of investigations and reduces the burden on investigated parties. It also increases transparency of the review process, in particular when authorities are able to share non-confidential information at an early stage and to discuss investigation timetables at key stages of investigations with each other.
4. The Sides have a common interest in outcomes of investigations that are efficient and non-conflicting.
5. For the cases which are subject to investigation of both Sides, the Sides have a common interest in establishing communication at an early stage and maintaining communication prior to, during or after the respective investigations on issues of procedure and substance including issues such as timing of the review, definition of relevant market, theory of harm, competitive impact assessment and issues relating to remedies, including their appropriateness to remedy competition concerns as well as their interoperability.
6. When confidentiality waivers have been exchanged for the purpose of an investigation and the Sides communicate information in accordance with the confidentiality waivers during the course of case cooperation, they will ensure the protection of business secrets and other confidential information.
7. The Sides may, where necessary, coordinate information requests to the parties and third parties, including exchanging draft questionnaires. The Sides may also upon request offer assistance to the other Side in cases where it is hard to obtain relevant timely and sufficient market information to assess a case.

8. The Sides may each designate a liaison officer for receiving and facilitating requests regarding case cooperation.
9. The Sides will use this Guidance in accordance with the Sides' respective laws and enforcement mandate.
10. The Sides reserve full discretion in the implementation of this guidance and cooperation does not prejudice any Sides' independent decision-making with respect to its cases. Nothing in this document is intended to modify or create any enforceable rights.

This Practical Guidance is signed in Haikou on 7 May 2019 in two copies, each in English and Chinese.

**For the Directorate-General for
Competition of the European
Commission**

Carles ESTEVA MOSSO
Deputy Director General



**For the State Administration for
Market Regulation of the People's
Republic of China**

GAN Lin
Vice Minister



中国国家市场监督管理总局与欧盟委员会竞争总司关于反垄断案件调查合作的 实务指引

2019年

1. 根据中华人民共和国国家市场监督管理总局与欧盟委员会竞争总司（以下简称“双方”）于2019年4月9日签署的《中欧竞争政策对话框架协议》，双方就需经双方调查的反垄断案件合作事宜，制定本实务指引。
2. 就双方均调查的案件开展调查合作，有助于双方及其执法人员彼此建立信任，对双方、被调查方以及第三方都是有益的。
3. 合作可提高调查工作的效率，减少被调查方的负担，同时将增加调查过程的透明度，尤其可使执法机构在早期阶段共享非保密信息，并在调查的各主要阶段相互讨论调查时间表。
4. 确保案件调查结果的有效性和非冲突性，符合双方的共同利益。
5. 就双方均调查的案件，双方在早期阶段即建立沟通渠道，针对程序和实体问题，如调查时间表、相关市场界定、损害理论、竞争影响评估以及与救济措施的问题，包括救济措施对竞争担忧补救的适当性和可操作性等，在各自展开调查之前、期间或之后保持沟通，符合双方的共同利益。
6. 当双方出于调查的需要交换弃权声明并根据该声明在案件合作过程中交换信息时，双方对商业秘密和其他秘密信息应当承担保密义务。
7. 双方可在必要时，协调对当事方和第三方提出的信息要求，包括交换调查问卷草稿。当难以获取案件评估所需的及时和充分市场信息时，双方可应一方请求向其提供协助。
8. 双方可各指定一名联络官员，负责受理办案合作请求并提供便利。
9. 双方执行本指引时，应遵守各自的相关法律和执法授权。

10. 双方在本指引的实施上享有完全的自由裁量权。案件合作不得影响任何一方对其所调查案件的独立决定权。本指引无意修改或创设任何执法权。

本《实务指引》于 2019 年 5 月 7 日在海口签署，一式两份，每份文本均用中文和英文写成。

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