

简易程序的适用标准 Standards for the Application of Simplified Procedure

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实体标准概述

Standards in general

☆ 意义/Significance

- 排除明显无竞争问题的集中，提高程序效率，节省程序资源
Exclude concentration with little competition concern, improve procedural efficiency, save procedural resource

☆ 基本要求/Basic requirement

- 确保达到标准的大部分集中无竞争问题
Ensure most of the concentration satisfying the standards trigger no competition concern

☆ 中国的挑战/Challenge to China

- 执法经验仍然缺乏，当事人可能面对程序风险
Lack of experience by the competition authority, the parties may face procedural risk

适用实体标准的考虑因素

Factors to be considered for application of standards

- 营业额/Turnover
- 市场份额/Market share
- 集中方的横向和纵向关系/Horizontal overlap and vertical relationship between the parties
- 控制权取得的方式/How the control has obtained
- 相关市场的具体情况/Specific situation within the relevant market
- 其他因素/Other factors

实体标准适用的例外

Exception for application of standards

- ❧ 所申报集中涉及公共利益问题
Public interest involved
- ❧ 所申报集中存在需要进一步调查的特殊情形
Special situations of the concentration make further investigation necessary
- ❧ 相关市场存在进入障碍高或集中度高的情形
Substantial entry barrier or high concentration within the relevant market
- ❧ 存在可能使集中产生竞争关注的其他特殊情形
Other special situation that may trigger competition concern
- ❧ 主管机构在相关行业没有进行经营者集中评估的先例
Lack of experience by the authorities involving the relevant industry

实体标准适用的程序问题

Procedural issues for application of standards

- 🔗 相关程序规定/Relevant procedural stipulations
 - ➡ 立案前审查无法定时限/No statutory time limit for review prior to official acceptance
 - ➡ 立案后不能停时钟/Clock cannot be paused post official acceptance

 - 🔗 可能的程序风险/Possible procedural risks
 - ➡ 标准具有不确定性或难以评估/Lack of certainty or hard to assess
 - 立案前耗时长/Time consuming prior to official acceptance
 - 可能需要提供大量资料/Large amount of materials may be required
 - ➡ 标准不能反映竞争情况/Standards cannot reflect competition status
 - 需要转为普通程序/May be transferred to normal procedure
- 立案前：提交进一步申报材料
Prior to official acceptance: further information should be provided
- 立案后：可能需要重新申报
Post official acceptance: new filing may be required

实体标准的适用途径

Way to apply the standards

- 明确规定/Clear rules
 - 规章/Regulation
 - 解释性文件/Explanatory official documents
 - 程序性规定/Procedural rules

- 简易申报要求的设计/Design simplified filing requirements
 - 依据标准设计申报简表/Design simplified form based on the standards

- 完善的磋商和修改机制/Complete system for consultation and revision
 - 迅速的磋商机制，以保障程序时间/Speedy consultation, ensure timing
 - 依据经验，定期修改标准/Periodical revision of the standards based on experience

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Thank you

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