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ANTI-MONOPOLY AND ANTI-UNFAIR COMPETITION ENFORCEMENT BUREAU
STATE ADMINISTRATION FOR INDUSTRY AND COMMERCE

Reflection on Royalty Rebates

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Why competition agencies pay attention to royalty rebates

- Such commercial policy adopted widely by big companies;
- Having both obvious negative influence and positive influence on competition;
- Relevant cases: EU Intel case, British Airways case, Michelin Case, Qualcomm case, Intel case etc.;
- Enforcement practice of Administrative Authorities for Industry and Commerce involves royalty rebates.

Characteristics of Royalty Rebates

- Contents of rebates:
reduce price, rebates, provide items or service for free or at low prices.
- Modes of rebates :
Single product rebates and multi-product rebates;
Incremental rebates and retroactive rebates;
Quantity rebates and percentage-based rebates;
Individualised rebates and standardised rebates.....

Basic knowledge of royalty rebates

- Royalty rebates aren't Per Se illegal;
- In general, royalty rebates are beneficial to competition and beneficial for customers;
- Under certain conditions royalty rebates may have effects of eliminating and restricting competition.

Assess the effects of royalty rebates on competition

Quantitative analysis

- Primary method of EU: As efficient competitor test;
Average avoidable cost (AAC) ;
Long-run average incremental cost (LRAIC).
- Advantage: High certainty of law enforcement.
- Disadvantage: High requirement of data; other non-price competitive factors aren't be considered sufficiently.

Assess the effects of royalty rebates on competition

Qualitative Analysis

- Related indicators: price, cost, stickiness of customers, actual effects of relevant conducts, the gap between the undertakings and their competitors etc.
- Advantages: consider multi-factors sufficiently.
- Disadvantages: may lead to uncertainty of law enforcement of the complex cases.

Personally Suggestions

- Establish and perfect relevant theories;
- Combine practice experience of other jurisdictions with Chinese realities.

Thank you !

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