

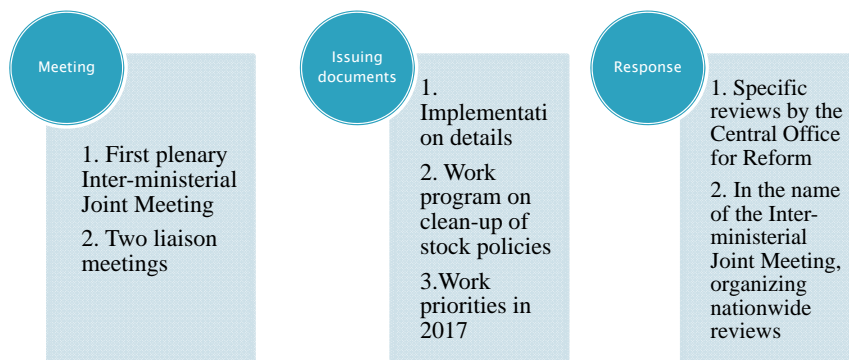
Development in Implementation of the Fair Competition Review System in China

Bureau of Price Supervision and Anti-Monopoly

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Continuing Implementation of the Review System



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① Convening Joint Meeting

- ◆ The Inter-ministerial Joint Meeting, involving 28 ministries, was initiated by the NDRC to facilitate implementation of the fair competition review system.
- ◆ On 5 May 2017, the first plenary session was held and Director of NDRC.
- ◆ 27 provinces (regions and cities) have established local joint-meeting system and corresponded coordination mechanism



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② Supporting Rules

- ▶ “Detailed rules for implementing the fair competition review system (provisional)”: To guide fair competition reviews regarding incremental policies and measures.
- ▶ “2017-2018 Work program of cleaning up on-going policies and measures in relate to elimination and restriction of competition”: To clean up contents in the stock policies with relate to restriction and elimination of competition
- ▶ “Facilitating implementation of 2017’s priorities with relate to fair competition review system”: To clarify the priorities in 2017 and work division.

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③ Specific Reviews

- ▶ In Augustus, the Central Office for Reform carried out specific reviews on the NDRC, in Jilin and Guangxi
- ▶ Since September, the NDRC, together with the ministry of finance, commerce, industry and justice has, in the name of the Inter-ministerial Joint Meeting, carried out fair competition reviews, nationwide, covering all other provinces.

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Periodical success recorded since the implementation :

- ▶ on the level of departments of the State Council
 - ✓28 member departments have clarified their internal review system and carried out stringent reviews on new policies and measures. 11 departments have issued notices and implementation scheme.
 - ✓Based on the feedback information from differencnt organizations, competition review on 1200 sectoral documents was done between July 2016 and Augustus 2017.
- ▶ on the local level
 - ✓31 provinces (regions and cities) have issued detailed implementation schemes, carried out domentation reviews. Municipal and county governments have also gradually started the implementation
 - ✓According to feedbacks, more than 1000 provincial documents have been reviewed with regard to fair competition between July 2016 and Augustus 2017.

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Document title	To-be-reviewed Contents	Contents after review	Violation of review standards
Comments on promoting construction of rail transit station and development and use of surrounding lands in Shanghai (沪府办[2016]79号)	Related local government facilitate the local state-owned companies or companies controlled by state owned assets to implement comprehensive development of the rail transit station	Full use of advantages of the local governments and of the main construction entity of rail transit station. In principle, the local government will take the lead to organize the comprehensive development	The standards for market entry and exit
Opinions on promoting increase of product variety and improve quality of consumer products in Shanghai (沪府办发[2017]16号)	Supporting China Institute of Industrial Design and other players use innovation awards as incentives Supporting Shanghai Institute of Quality and Standardization and other market players to apply the group's and alliance's standards that	Supporting the markets in better shapes...	Effects on the standards of production and operational costs

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Implementation details:

- ▶ Agreed by the state Council, the Details will be jointly issued by 5 ministries and departments, namely the NDRC, Ministry of Financen, Ministry of Commerce, SAIC and the Legal Affair office of the State Council
- ▶ The Details contains 6 chapters, 26 articles. The detailed information covers the review system and the procedure, the standards, the exemptions, community supervision and accountabilities.
- ▶ Problems: weak procedural restriction, insufficient review capacity, lax accountability

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① Strengthening procedural restriction

- 1 • Clarifying requirements of review results in written-form
- 2 • Emphasizing the consultation phase in the fair competition review
- 3 • Setting up a system to guarantee regular reporting
- 4 • Draw up “one graph & one table”: namely the procedure graph and review table

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3 steps :

- ① Identifying whether the relevant activity is market economy related ;
- ② Making the review based on the standards and explaining relevant issues;
- ③ Deciding whether the exemptions are applicable

Procedure of Fair Competition Review		
Market economy related activity or not?	no	No review is required
Check with the 18 standards one by one	compliance	Green light for the policies and measures
Explain which standard is violated, and effects on market competition	Violation of one standard	
Exemptions applicable?	Yes	Can be issue, but extra explanation on conformity with the exemptions, and yearly evaluation on implementation effects are required
Revise	No	May not be issued

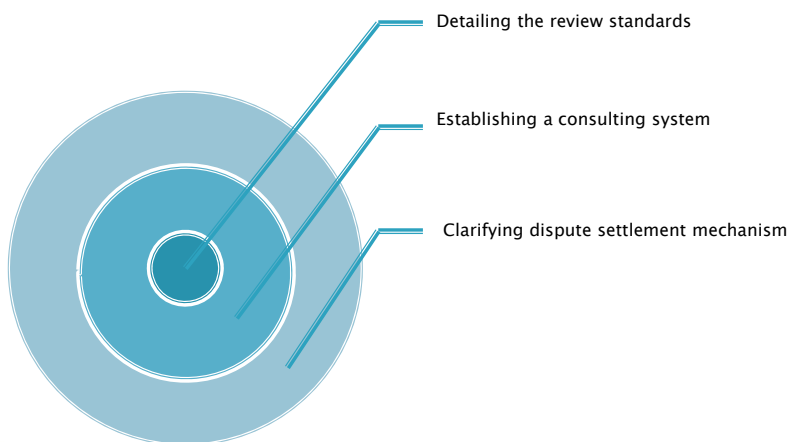
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- Form Requirements
 - ✓ In written form
 - ✓ Signature from the responsible of the review body
 - ✓ Performing the procedures and filing documents
- Content requirements

The contents should explain the whole procedure, including the review results, reasons and consultations from experts and other sources

Title of Policy & Measure			
Related sector			
Feature			
Drafted by		Handled by	
Reviewed		Handled by	
Information about Consultation	Date, targeted person/group, feedbacks and adoption of the feedback (relevant reports can be attached)		
Consulting Experts and antitrust enforcing organizations (optional)	Date, targeted person/group, feedbacks and adoption of the feedback (relevant reports can be attached)		
Check with the review standards	Check with the 18 standards one by one and circle "yes" or "no"		
Review Result	Decide whether the standards are violated (In case of inconformity, please explain)		
Applicability of the Exemptions	In case of applicable, explain the reason and related criteria		
Others			
Opinions from the responsible of the review organization	Signature Stemple Date		

② Enhancing Guidance



Detailed review norms : 18 review standards → 50 sub-standards

◆ Clarifying concepts, for instance

- ✓ Definition of the word “unreasonable” in the text “unreasonable and discriminatory entry and exit criteria”: obviously unnecessary and beyond actual criteria required for market entry and exit.”
- ✓ The phrase “sensitive information” in the text “It is forbidden to illegally disclose or legally require operators to disclose sensitive data on production and operation”: the production and operation information, including pricing, costs, production and sales volume, production and sales plan, information on dealers and end-customers, that producers and operators don’t actively disclose, and cannot be acquired via public channels.

◆ Enumerating manifestations/methods, for instance

The manifestations/methods to ‘restrict non-local and imported goods and services to enter the local market’: imposing different technical requirements or test norms; repeating tests, doubling certification, and other discriminatory measures; or imposing a specific review procedure, licensing for non-local and imported goods, franchised services; setting up barriers or blocking via software and internet, ect.

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Setting up consultation mechanism

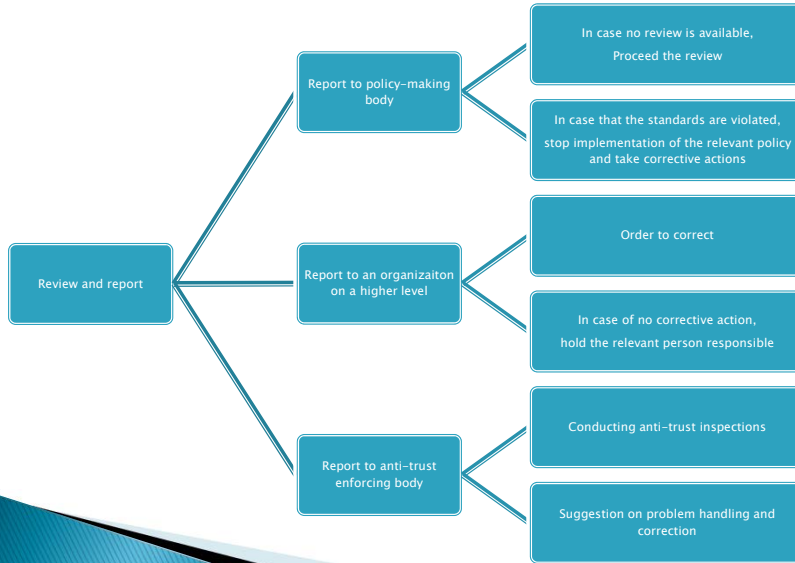
- ✓ Consulting experts, scholars, legal advisers and professional organizations
- ✓ Consulting the relevant anti-monopoly enforcement bodies. The enforcement bodies provide opinions based on the information from the policy-making bodies.

Clarifying dispute settlement mechanism

- ✓ For disputes or issues for which a consensus is hard to reach, the policy-making body may request the Inter-ministerial Joint Meeting of the same administrative level to coordinate and mediate;
- ✓ In case the mediation is without result, the dispute can be submitted to an organization on a higher level.

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③ Stringent reviews and accountability



Thank you for your attention !