



Identification of Price-fixing Behavior through Electronic Evidence

Introduction of PVC price-fixing case

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- II Involving companies working towards an agreement on price-fixing
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I. Background Information



A Wechat group of PVC companies



Violation of the China's "Anti-Monopoly Law"

18 companies involved

Monopoly agreements hidden in the Wechat group

The involved 18 companies received the largest fine in anti-monopoly cases



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I. Background Information

The Anti-Monopoly Bureau of NDRC has always attached great importance to the reports/tip-offs on price-fixing practices. From July to September this year, the Bureau confirmed in public 4 price-fixing cases, 3 of which occurred in the sector with over-capacity. These companies conducted the price-fixing practice in order to “get warmth by sticking together for warmth”.

Investigations on these cases has necessity, given the context of the new economic development. The policy orientation during the process of structural reform on the supply side has been clearly pointed out: knocking out of the outdated capacity and enhancing innovation. Under such circumstance, some companies still intended to “stick together for getting warmth”, through price-fixing. This is obviously unworkable.

In order to effectively promote structural reform on the supply side, and to knock out outdated capacities, the enforcing bodies will crack down the so-called “sticking together for warmth behavior” or in another word price-fixing practices.



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I. Background Information

Involved Products: Polyvinyl chloride (PVC)



PVC's wide application

Building wires & cables



Building materials



Medical Equipment



Household Applications

PVC is one of the most raw materials for general plastics in China. It is widely applied in building materials, medical equipment, household applications, and industrial production. It is closely linked to the people's daily life.

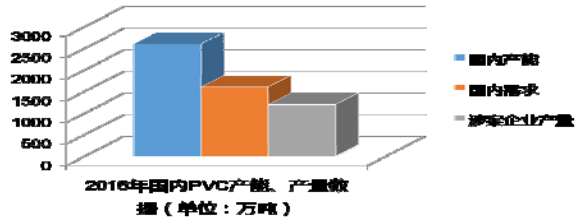


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I. Background Information

According to statistics, the total production capacity of PVC reached 26 million ton in 2016, with overcapacity. The total capacity of involved companies in 2016 reached 12 million ton, 3 fourths of the national total, which indicates their strong market power.

Since last year, the price on the PVC market has shown drastic fluctuation.



PVC domestic capacity and production in 2016 (unit: 10,000 ton)

Blue: Domestic production capacity
Orange: Domestic demands
Grey: Total capacity of the involved companies



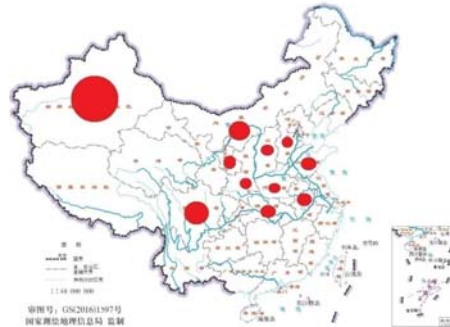
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I. Background Information



Suspected companies that are involved in the price-fixing practice, have increased in collusion the PCV prices.

Based on the collected clues in the earlier period, there were 18 companies involved in the price-fixing practice. From January this year, we have organized supervisions in 10 provinces, and conducted investigations to the 18 companies, that are widely spread in different provinces: 6 in the Inner Mongolia Autonomous Region; 2 each in Xinjiang Autonomous Region, Nixia Autonomous Region and Sichuan; 1 each in Shaanxi, Shandong, Hubei, Shanxi, Hebei and Anhui (mostly are located in the North-west).





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Involving companies working towards an agreement on price-fixing

The Civil Procedure Law of P.R. Of China

Article 63

Evidences include:

- (1) Party's statements; (5) **Electronic evidence;**
- (2) Written statements; (6) Witness testimony;
- (4) Physical evidence; (7) Experts' opinions;
- (3) Audio-visual materials; (8) Records of on-site investigation

Interpretation of the Supreme People's Court on applicability of The Civil Procedure Law of P.R. Of China

(法释〔2015〕5号)

Article 116

Audio-visual materials includes sound recordings and image data

Electronic data refers to the information obtained through emails, electronic data exchange, online chatting, Blogger Wechat, sms and domain names, or stored in the electronic media.

Sound recordings and image data stored in the electronic media are applicable for the definition of the electronic data

II. Involving companies working towards an agreement on price-fixing

Advantages of using electronic data as evidence

1. Once it forms, it will maintain its original, authentic status and can truthfully reflect the facts.
2. It can be stored endlessly and retrieved at any time.
3. Compared to that of the e-evidence, the nature of physical evidence can be more easily influenced by the surrounding environment, a written evidence can be easily damaged or contain a slip of a pen, or can be misrepresented, misguided or misnoted by the witness, or with subjectivity. On the contrary, the e-evidence is more objective and stable.

Disadvantages of using electronic data as evidence

Electronic evidence could be easily destructed, stolen, tampered, or even destroyed and could be difficult to trace or recover afterwards.

In this case, a lot of attentions are paid to saving and intercepting of Wechat messages, to verifying actually information from the group members, to the sales agreements, sales accounts and invoices. All these form the complete chain of evidence.



II. Involving companies working towards an agreement on price-fixing

Reaching monopoly agreement through Wechat

An Alliance of the 18 companies led the communication through the Wechat group, involving 93 persons and containing more than 3800 messages. They made 13 times of agreement on price-fixing.



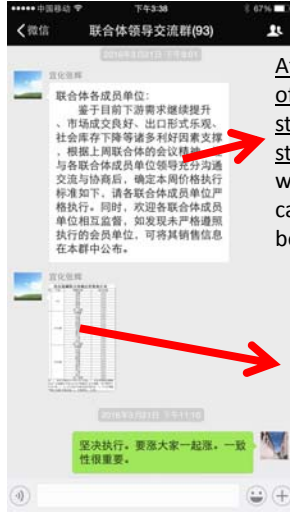


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II. Involving companies working towards

Reaching monopoly agreement via Wechat

On March 21, 2016, Hubei Yihua proposed price increase, and announced "Price List", which was followed and supported by the other companies. An agreement on price is reached.



After communication and consultation with the responsables of all member companies of this alliance, the implementing standards of this week's prices will be concluded. Please strictly follow the concluded standards. Meanwhile, we welcome mutual monitoring among member companies. In case of any breach, the sale information of this company will be published in the group.

西北氯碱联合体确定价格执行表

序号	产品	销售区域	执行价格
1	PVC	华南	5750
		华东	5700
		华中	5550
		华北	5450
		西南	5500
		东北	5400
		出厂自提	5300



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II. Involving companies working towards an agreement on price-fixing

Reaching monopoly agreement via Wechat

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Will be firmly executed. If increase, everyone should follow. Consistency is of great importance.

Erdos follows by a increase of 100
OK
Follow

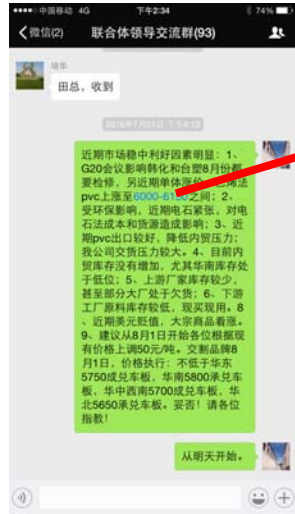


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II. Involving companies working towards an agreement on price-fixing



On July 31, 2016, Xinjiang Zhongtai proposed a price increase, which was supported by other enterprises. A price monopoly agreement was reached.



9、建议从8月1日开始各位根据现有价格上调50元/吨。交割品牌8月1日，价格执行：不低于华东5750成兑车板，华南5800承兑车板，华中西南5700成兑车板，华北5650承兑车板。妥否！请各位指教！

9. We suggest that you increase your price by 50 yuan per ton from August 1. The price should be: no less than 5750 in east China, 5800 in south China, 5700 in central China, and 5650 in north China. Please indicate whether you consider the above views sound or not.



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II. Involving companies working towards an agreement on price-fixing



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We support price raise!

Agree.

A timely proposal!

Agree! Support!

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Reaching monopoly agreement through Wechat

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新疆天业楚中会
雄起! *Rise up!*

宣化姚清
主要为市场营造氛围 *It mainly creates an atmosphere for the market.*

北元单建军
望各位共同行动 *Hope we can act together.*

刘波
宣化按原计划行事, 报价上调100元, 各位亲们共同努力。
Yihua will act on the original plan, raise 100 yuan. Let's work together.

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曹双喜 (营销处长)
支持! *Support!*

北元单建军
好的 *Okay*

路斌
支持! *Support!*

曹双喜 (营销处长)
德州实华化工有限公司七型, 八型5750出厂
Dezhou Shihua Chemical Co., Ltd will raise our factory price of Type7and Type8 product to 5750



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2016年7月31日 下午5:47

唐山王总

杨总提议涨价时间恰到好处，机会难得，三友完全赞同，并坚决执行！

Mr. Yang always proposed the price increase at the optimal time. Sanyou totally agree that it's a great opportunity, and we will firmly carry out this plan.

刘中海

哈哈！建议本群改名为一致行动调价群。

Ha ha! I suggest this group be renamed as the 'Acting concertedly in adjusting price' group



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II. Involving companies working towards an agreement on price-fixing

Reaching monopoly agreement through Wechat

According to statistics, 18 enterprises involved participated in the WeChat group and have reached the above price monopoly agreements, 13 times in total (including publishing 11 pieces of "Price Statement", although no statements were published in the other two times, the mark-up was also expressly prescribed).



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III. Involving companies conducting price-fixing practice

Implementation
of Monopoly
Agreement

In terms of implementation, it mainly manifests itself in two ways:

I. A part of the companies involved will hold an internal pricing meeting to increase the price of PVC sale price after reaching a monopoly agreement.

II. To carry out the agreed price in the actual sales process.



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III. Involving companies conducting price-fixing practice

Implementation of Monopoly Agreement

After reaching the July 2016 monopoly agreement, Ordos Electroforming Company) raised the price of PVC by printing and distributing *Notice on the adjustment of sales guiding price of calcium carbide and PVC product (Carry out on August 2)*. The adjusted price is in line with the monopoly agreement.

关于电石、PVC产品销售指导价调整通知

华东区域 PVC 优等品 5600 5750 +150

通知 East China Region

根据集团当前产销情况及对市场研判, 经企业管理部产

品价格管理办法

产品销售指导价			PVC价格执行表	
区域	品名	规格	销售区域	执行价格(元/吨)
华中区域	电石	200kg	华南	5800
华中区域	PVC	优等品	华东 East China Region	5750
华中区域	PVC	优等品	华中	5700
华中区域	电石	200kg	华北	5650
华中区域	PVC	优等品	西南	5700
华中区域	电石	200kg	东北	5650
华中区域	电石	200kg	出厂自提	5450

三家企业 单一议 售: PVC

备注: 1、执行日期自2016年8月1日起。2、以上PVC执行价格全部为承兑价。3、PVC区域售价指港口自提/车板自提。



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III. Involving companies conducting price-fixing practice

Implementation of Monopoly Agreement

In the actual sales process, PVC products are sold in accordance with the agreed price agreed upon in the monopoly agreement.



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III. Involving companies conducting price-fixing practice

		March 2016				
Implementation of Monopoly Agreement	1	Hubei Yihua Group Co., Ltd 湖北宜化集团有限公司	2016年3月			
			湖北金牛管业有限公司	荆州市骏达科技有限公司		
			5350	5450	5400	5450
	2	China Salt Jilantai Salinization Group Co., Ltd 中盐吉兰泰盐化集团有限公司	2016年3月 March 2016			
			浙江中财强毅投资有限公司	浙江盛丰塑胶有限公司		
			5350	5600	4930	5250
	3	Inner Mongolia Yili Chemical industries Co., Ltd 内蒙古亿利化学工业有限公司	2016年7月 July 2016			
			山东悠南贸易有限公司	河北传树建材科技有限公司		
			5400	5450	5350	5400
	4	Inner Mongolia Junzheng Energy & Chemical Industry Group Co., Ltd 内蒙古君正能源化工集团股份有限公司	2016年5月 May 2016			
			苏州市中塑化工有限公司	沧州市中昊化工产品有限公司		
			4980	5050	5000	5050
	5	Erdos chloric Electricity and Metallurgy Group Co., Ltd, Alkaline Branch 鄂尔多斯电力冶金集团股份有限公司氯碱化工分公司	2016年7月 July 2016			
			北京亿兆华盛有限公司	聊城德诚塑料有限公司		
			4870	5450	5300	5450
	6	Wuhai Benyuan Trade Co., Ltd 乌海市本原经贸有限公司	2016年7月 July 2016			
			厦门台邦化工有限公司	三菱商事(广州)有限公司		
			5580	5797	5760	5810



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		August 2016				
Implementation of Monopoly Agreement	7	Baotou Sea Level Macromolecule Industrial Co., Ltd 包头海平面高分子工业有限公司	2016年8月			
			雄县华荣兴业化工有限公司	北京鑫汇泉商贸有限公司		
			5350	5450	5250	5520
	8	Xinjiang Tianye (Group) Co., Ltd 新疆天业(集团)有限公司	2016年8月 August 2016			
			江苏道普化工有限公司	南昌天禾塑业有限公司		
			5820	5920	5800	5950
	9	Xinjiang Zhongtai Chemical Co., Ltd 新疆中泰化学股份有限公司	2016年3月 March 2016			
			长沙联可达塑业有限公司	宁波远大国际贸易有限公司		
			5470	5590	5300	5440
	10	Ningxia Yinglite Chemical Co., Ltd 宁夏英力特化工股份有限公司	2016年7月 July 2016			
			上海上鳌贸易有限公司	合肥昌华塑胶有限公司		
			5250	5400	5525	5875
	11	Ningxia Jinyuyuan Chemical Group Co., Ltd 宁夏金昱元化工集团有限公司	2016年9月 September 2016			
			武汉常盛源塑胶有限公司	常州市浩逸化工有限公司		
			5600	5950	5650	5850
	12	Sichuan Jinlu Group Co., Ltd 四川金路集团股份有限公司	2016年8月 August 2016			
			重庆佰仕多化工有限公司	浙江中财明强投资有限公司		
			5650	5700	5650	5850



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III. Involving companies conducting price-fixing practice

Implementation
of Monopoly
Agreement

		September 2016	
13	Yibin Tianyuan Group Co., Ltd 宜宾天原集团股份有限公司	2016年9月	
		重庆久塑塑胶有限公司	贵州钦源化工有限公司
		5761	6051
14	Dezhou Shihua Chemical Co., Ltd 德州实华化工有限公司	2016年7月 July 2016	
		安徽康嘉塑胶建材有限公司	霸州市裕丰化工经销有限公司
15	Shanxi Beiyuan Chemical Co., Ltd 陕西西北元化工集团有限公司	2016年8月 August 2016	
		简称为天津金鹏	宁波炎石高分子材料有限公司
16	Tangshan Sanyou Chlorine alkali Co., Ltd 唐山三友氯碱有限责任公司	2016年7月 July 2016	
		江阴创鸿塑业有限公司	唐山市丰南区祥合盛商贸有限公司
17	Anhui Huaxing Co., Ltd 安徽华塑股份有限公司	2016年7月 July 2016	
		云南正邦科技有限公司	浙江东方港龙新材料股份有限公司
18	Shanxi Yushe Chemical Co., Ltd 山西榆社化工股份有限公司	2016年7月 July 2016	
		宁波市亿帆化工有限公司	苏州市中塑化工有限公司

Conduction
Of Price-
fixing

The 18 companies involved in the case have increased the price of PVC sales and actual sales in accordance with the agreed price or price increase of the monopoly agreement.



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IV. Qualitative Analysis and Penalty Decision

Qualitative Analysis

The behavior of the above 18 companies involved, pushing up the PVC sales price, has violated Article 13 (1) Item (1) of the Anti-Monopoly Law, which is an unlawful act conducted by business operators with competitive relationships to agree and implement price monopoly agreement.

Harm

Restrained chemical industry from 'cutting overcapacity'

Hindered downstream firms from 'lowering the cost'

Damaged consumers' legal rights and interests



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IV. Qualitative Analysis and Penalty Decision

For the 18 companies that agreed to the price monopoly agreement, they will be fined 1-2% of the relevant market sales in 2016. (4,573.497 million yuan)

The penalty of 2 per cent was imposed on the lead Hubei Yihua and Zhongyan jilantai, which was 526.198 million yuan, 330.328 million yuan. The subtotal is 856.526 million yuan.

A penalty of 1 percent was imposed on 16 subordinate firms, including Xinjiang Zhongtai. The subtotal is 3,716.971 million yuan.



Thank you for your attention