

# *An Analysis of the Roles of the Anti-monopoly Law in Sustainable Economic Development*

Sishang Zhang<sup>1,a,\*</sup>

<sup>1</sup>*Sociology and Economics, Smeal College of Business, Pennsylvania State University, Statecollege, Pennsylvania, 16803, United States*

*a. sishangzhang@gmail.com*

*\*corresponding author*

**Abstract:** Laws can have a certain impact on economic development, especially anti-monopoly laws. The reason to study this important social issue is because it is crucial to China's national situation. In many industries in China, especially the Internet, technology, and finance, the market tends to be highly concentrated. This not only threatens small and medium-sized enterprises but may also be detrimental to consumers. The lack of effective anti-monopoly supervision may lead to social inequality and a widening gap between the rich and the poor, which is contrary to the goals of China's socialist modernization drive. Therefore, the anti-monopoly law has special and important significance in China and needs further study and improvement. The theme of this paper is to analyze the role of the anti-monopoly law in sustainable economic development. Research methods include case analysis and literature research. The result shows that the importance of anti-monopoly law is mainly reflected in preventing abuse of market position and regulating that market players cannot abuse their market position to engage in unfair competition. At the same time, it can also realize the effective allocation of resources, which can ensure that the market can improve overall social welfare in an environment of sufficient competition.

**Keywords:** Anti-monopoly, Monopoly, Digital Platform, Alibaba Group, Pinduoduo

## 1. Introduction

In the current era of the digital economy, some companies accumulate and control a large amount of data, resources, and users through the development of platform technology and then establish a digital platform that occupies a strong market position, and this is so-called platform capitalism. However, if these digital platforms, because of their rapidly rising market position, block data, crowd out competitors, and issue unequal contract terms, then this is suspected of violating the anti-monopoly law in the market. As a result, regulators in many countries have begun to pay attention to the anti-competitive issues that platform capitalism can bring and have taken measures such as requiring platforms to open data access or even breaking up certain parts of the enterprise to protect fair competition in the market and achieve sustainable economic development. Building on previous research on antitrust law on this topic, such as Professor Chee's, which identified potential barriers to foreign investors in Chinese law, the author will focus on the potential impact of China's antitrust law on the domestic market [1]. This article will begin with the specific case of monopolies and explain their consequences in turn, explaining the importance of anti-monopoly law and its benefits

to the economy. The use of examples, literature research aims to make the development of China's anti-monopoly supervision law more scientific, ensure social fairness, ensure the effective allocation of resources, and make China more in line with international laws and regulations in the era of global economics.

## 2. Anti-monopoly Laws

The history of monopolies in business dates back a long time. Such practices hurt the economy, and governments have been forced to put measures in place to protect small businesses from the unfair practices of large companies. In America, the common law referenced is Sherman's Anti-trust Act (1890). This law was born out of efforts by the government to prohibit trusts that were dominating major industries and destroying competition. Under the Act, individuals and companies that violate the laws are punishable by fines and jail sentences. For countries like China that shifted from a centrally planned economy in the late 1970s, its anti-monopoly laws remained experimental until they were fully adopted on August 30, 2007, as the Anti-Monopoly Law [2]. Its provisions are similar to those in other countries, including the prohibition of unfair mergers, abuse of power, and requiring companies to provide notice of merger intentions. The laws have become fundamental in shaping the country's competition policy reforms. While some companies are expected to achieve a natural monopoly organically, some of them pursue dominance through unethical practices that are today defined in anti-trust laws established by different countries. In America, major examples are Standard Oil Company and Google. Standard Oil Company was founded in 1863 and grew to dominate the oil refinery business in America [3]. However, its growth was at the expense of small businesses in the industry. First, the company arranged discounted shipping rates with railroads. The company got raw materials delivered to it and finished products delivered to the market at a lower rate than its competitors [3]. This gave the company operational cost and pricing advantages over competitors.

In 1871, the company entered an undisclosed alliance with refineries and railroads aimed at controlling oil prices and shipping costs even though the alliance did not last long [3]. Standard Oil Company was accused of threatening refineries to sell to them at a bargain price. The company acquired other refineries. In 1874, the company acquired a newly built pipeline network that supplied crude oil to competitors who refused the acquisition deal proposal [3]. This move was aimed at forcing the companies to accept the deal. On another occasion, a new company wanted to build a new pipeline and Standard Oil Company bought the land along the way the pipeline was planned to pass through [3]. The company desperately wanted to eliminate competitors in the industry and assert its control on business operations from production, processing, marketing, and transporting. The alliances and acquisitions were in favor of the company but at the expense of small businesses. In defense, the company argued that it had adopted a strategy dubbed "cooperation versus competition" to imply that the company grew through cooperating with other industry players. In reality, the company used its power and influence to control the market. Through a court ruling, the company was broken down into independent companies [3]. To date, the American government continues to monitor the market operations of large companies to enforce its anti-trust laws.

## 3. The Impact of Anti-monopoly Laws for Sustainable Economy

The American tech giant, Google, has been sued several times for violating anti-trust laws. In 2021, 17 states pursued a lawsuit against the company for its discriminatory advertising practices [4]. The major concern was that the search function has been designed to prioritize content from companies affiliated with Google and not from other sources. The search result page displays content from

sources affiliated to Google thus directing online traffic to them and limiting traffic to content from other sources. These discriminatory practices have affected the quality, cost, and innovations in the industry as the company dictates the prices. Google controls most of the tools used in digital advertising [5]. Aside from these anti-trust suits, Google has used acquisition as its main strategy to gain a monopoly in the market. As of February 2023, Google's market share for its search engine was 93.37% [4]. The company has grown by buying rivals and ad vendors. Major acquisitions include DoubleClick in 2007 for \$3.1 billion, Invite Media, Ad Meld, Sprink, and Ad Mob, among others. These acquisitions gave the company unrivaled power in digital marketing. Google also acquired ITA Software, a search engine its rivals relied on for searches on travel. The company also built Google Flights to keep searches for travel deals on its own platform. The ITA software was acquired for \$700 million [4]. In 2005, the company acquired Android which is used on mobile devices. In 2021, mobile devices were rated as the fastest-growing source of online traffic at 60%. 70% of mobile devices in the world run on Android [4]. While Standard Oil Company built a monopoly through control of the supply chain, Google has been challenged to use the acquisition to dominate the market. Although there is no reasonable substitute for Google, monopoly limits innovation possibilities as competitors seek to provide differentiated products and services from what Google offers. The US Department of Justice said that Google is a "monopoly Internet gatekeeper" and has been taking measures for years to prevent others from tampering with its dominant position, such as signing an exclusive agreement that prohibits the pre-installation of any competitive search services [5].

Over the years, economic structures have significantly changed and state-owned companies have decreased, and the role of the private sector has significantly grown. With the current market-oriented economy, the necessity for anti-monopoly laws is critical in shaping how the economy will grow [6]. The Chinese fast-growing economy has attracted both foreign and domestic companies to establish themselves in various industries. However, the practices of these companies can harm the economy if left unchecked. In 2022, China reviewed its anti-monopoly laws and made them stricter. The law addresses issues like merger reviews and creating a safe harbor for vertical agreements. Several changes have been made. First, there are higher penalties to discourage merger control and cartel conduct. Companies operating in the digital economy are forewarned not to abuse their power using algorithms, platform rulemaking, or other advantages over rivals. The public is empowered to bring a lawsuit against monopoly companies that damage the social public welfare. "Killer's acquisitions aimed at acquiring startups and emerging platforms are now viewed as anti-competitive [7]. Companies are prohibited from adopting self-preference measures in their policies. With companies like Alibaba growing to dominate major industries, the government is concerned about having customers choose between a few options.

As one of the largest e-commerce platforms in China, Alibaba's Taobao platform has annual revenue of more than 300 billion yuan, and more than 30% of the country's annual e-commerce transactions are realized through Taobao [8]. Therefore, Alibaba's influence on the Chinese e-commerce industry cannot be ignored. To seek more benefits, Alibaba uses various methods to entice these merchants, some of which have been found to violate anti-monopoly laws. The State Administration for Market Regulation of China began investigating Alibaba Group under the Anti-Monopoly Law in December 2020 [9]. The bureau stated that since 2015, Alibaba Group has abused its dominant position in the domestic market and imposed an exclusive requirement on merchants on the platform not to open stores or participate in promotional activities on other platforms. Borrowing market power, platform rules, data, algorithms, and other technical means, adopting a variety of reward and punishment measures to ensure the implementation of the "choice of two" requirements, maintaining and strengthening its market power, and gaining an unfair competitive advantage [10]. The bureau criticized Alibaba's behavior as restricting market

competition, affecting innovation and development of the platform economy, infringing on the legitimate rights and interests of businesses, and harming the interests of consumers.

China's anti-monopoly law (AML), the State Administration for Market Regulation (SAMR), made an administrative punishment decision on Alibaba on April 10, ordering Alibaba Group to stop its self-preference behavior and imposing a fine of 18.228 billion yuan, or 4% of its 2019 domestic sales [9]. SAMR also issued an Administrative Guidance for Alibaba, requiring comprehensive changes. For example, SAMR required Alibaba to establish a strong internal and external antitrust compliance mechanism: to notify all concentrations below the AML notification threshold, improve the complaint handling mechanism, and report the implementation of these measures to SAMR as early as possible. In response, rival e-commerce giants Alibaba and Tencent have agreed on launching the Taobao Deals App on Tencent's Social Media Platform WeChat, which would allow Alibaba's retailers to reach out to WeChat users and accept payments through WeChat Pay operated by Tencent [10].

In other economic sectors, the enforcement of the AML is guided by industrial policy priorities such as building digital eco-systems, and the effectiveness of other governance mechanisms would curb the monopolistic practices of the "digital gatekeepers". Following the Alibaba decision, SAMR, jointly with the Cyberspace Administration of China and the State Taxation Administration, summoned 34 tech firms and urged them to bring their commercial practices into compliance with AML [11]. The government holds that this is a policy that harms the interests of customers and encourages anti-monopoly services in the Chinese market, including online retail platforms, which hinder the free flow of goods and impose unnecessary pressure on competitors. For example, Recently, the deaths of two young employees of Pinduoduo have sparked a heated debate about the excessive work culture of Chinese technology companies Pinduoduo, a rising e-retailer in China and a strong competitor of Alibaba, was forced to set tight delivery times, encouraging drivers to speed dangerously. In today's marketplace, competitors interact in a variety of ways through trade associations, professional bodies, joint ventures, standard-setting organizations and other industry groups. Such deals tend to be not only competitively benign, but also pro-competitive. However, antitrust risks arise when competitors interact to the extent that they no longer act independently, or when cooperation enables competitors to exercise market power together [12].

While China may not have a rich history with anti-monopoly laws, the country is very proactive in learning from countries like America and adopting proactive measures to curb the behavior and build a sustainable economy. Strengthening anti-trust regulations is important because a well-regulated economy will lead to its long-term healthy development.

#### 4. Discussion

Today, China's anti-monopoly legal system is gradually improving and strengthening. This trend is expected to continue in the coming years. If we want to further regulate China's digital platforms and markets, we need to strengthen antitrust regulation in key industries (such as technology, finance, energy, etc.) to ensure fair competition in the market. We will revise and improve laws and regulations, and constantly update and revise the existing anti-monopoly law to meet the needs of future market and technological development. In addition, improving market transparency, improving market understanding of and compliance with the antitrust law by issuing more policy explanations and case studies, and setting up a government agency specifically responsible for antitrust affairs to improve enforcement efficiency and professionalism are also necessary factors [13].

## 5. Conclusion

There is no doubt that the anti-monopoly law is of great significance to Chinese society. Its existence not only makes Chinese platforms and markets more comprehensive and refined, which includes special provisions for new forms of business such as the digital economy and the sharing economy, but also ensures data- and technology-driven development. With the support of big data and AI, antitrust regulation will make the development of technology more scientific, ensure social equity, and ensure the effective allocation of resources. With the globalization of China's economy, the anti-monopoly law may consider more integration with international regulations to promote cross-border business activities. In the future, there may be more participation from all sectors of society, including academia, the business community, and the public, to make the anti-monopoly law more comprehensive and effective. To sum up, China has a lot of work to do in anti-monopoly, but there are also many opportunities and possibilities. With the rapid development of the economy and the gradual improvement of the market system, anti-monopoly laws will play an increasingly important role in China. In this paper, the analysis of the data content of each article is not deep enough, the summary may not be complete, and only can make personal analysis and characterization of the surface phenomenon. Future research will pay more attention to the deeper meaning of the cited literature and the market meaning behind each data, so as to achieve a deeper description of the anti-monopoly law and find out how other relevant laws can promote the Chinese market.

## Acknowledgment

Firstly, I would like to show my deepest gratitude to my professor Baert, who has provided me with valuable guidance in every stage of the writing of this thesis. Further, I would like to thank all my friends and parents for their encouragement and support. Without all their enlightening instructions and impressive kindness, I could not have completed my thesis.

## References

- [1] Chee, T. T. (2013). *RULE OF LAW IN CHINA — LEGISLATION REASONING AND ENFORCEMENT OF ANTI-MONOPOLY LAW IN CHINA AND THE WEST*. *Frontiers of Law in China*, 8(4), 689-767. doi:<https://doi.org/10.3868/s050-002-013-0025-8>
- [2] Owen, B. M., Sun, S., & Zheng, W. (2008). *China's Competition Policy Reforms: The Anti-Monopoly Law and Beyond*, *Antitrust Law Journal*, 75, 231.
- [3] Jagtap, A., Biswas, A. and Blaney, J. (2021). *The antitrust legacy of Standard Oil in today's world, TWA*. Available at: <https://jpt.spe.org/twa/the-antitrust-legacy-of-standard-oil-in-todays-world>.
- [4] Hines, K. (2023). *Google's antitrust showdown: 17 states involved in DOJ lawsuit*, *Search Engine Journal*. Available at: <https://www.searchenginejournal.com/doj-antitrust-lawsuit-against-google/485023/#close> =.
- [5] Rivero, N. (2020). *The acquisitions that made Google A Search Monopoly*, *Quartz*. Available at: <https://qz.com/1920334/the-acquisitions-that-built-googles-monopoly-on-search> .
- [6] Lai, K. (2021, April 6). *China's New Anti-Monopoly Rules for Tech Companies*. *International Financial Law Review*.
- [7] Mozur, P., & Hardy, Q. (2015, February 9). *China Hits Qualcomm With Fine*. *New York Times*.
- [8] Fu, L. (2018). *Private Enterprise Development in a One-Party Autocratic State: The Case of Alibaba Group in China's E-Commerce* . *Issues & Studies*, 1-33. <https://doi.org/10.1142/S1013251118500017>
- [9] Zhong, R. (2021, April 9). *China Fines Alibaba \$2.8 Billion in Landmark Antitrust Case*. *New York Times*.
- [10] Thomas, R. (2021, March 12). *China Market Regulator Fines 12 Firms for Violating Anti-Monopoly Law*. *Reuters*.
- [11] *China Antitrust Review 2022*. (2023). Davis Polk. Available at: <https://www.davispolk.com/insights/client-update/china-antitrust-review-2022>.
- [12] Ritchie, J.N.& 2022. A. and Staff in the Bureau of Competition & Office of Technology Dealings with competitors, *Federal Trade Commission*.

- [13] Leigh, A., & Triggs, A. (2016 ). *Markets, Monopolies and Moguls: The Relationship between Inequality and Competition: Markets, Monopolies and Moguls. Australian Economic Review*, 49(4):389-412.  
<http://dx.doi.org/10.1111/1467-8462.12185>