

# *Research on anti-monopoly and unfair competition from the perspective of administrative law*

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**Abstract:** With the development of market economy, monopoly and unfair competition have gradually become the key factors affecting the market order and fair competition. From the perspective of administrative law, the laws and regulations of anti-monopoly and unfair competition are important guarantees to safeguard fair market competition and protect the rights and interests of consumers. Through the analysis of relevant laws and regulations and their application, this paper discusses the research status, existing problems and improvement measures of anti-monopoly and unfair competition from the perspective of administrative law.

## 1. Introduction

From the perspective of administrative law, this thesis makes a systematic study of anti-monopoly and unfair competition. In the current new economic era, the resource characteristics and technical characteristics of the new economic products determine the inevitability of monopoly, and also determine that the monopoly in the new economy is a technical monopoly and a competitive monopoly. For this kind of new monopoly, the traditional anti-monopoly law has many difficulties in theory and practice. Therefore, the thesis aims to discuss how to adjust the standard of anti-monopoly identification, consider whether the new economy enterprise is monopoly by combining various factors, and better use the reasonable principle.

## 2. An overview of the antitrust and unfair competition issues

Anti-monopoly and unfair competition are one of the hot issues in today's society. This subsection provides an overview of antitrust and unfair competition by definition, background, and importance. By analyzing the latest data and literature reviews, we will explore the impact and challenges of antitrust and unfair competition in the current economic environment.

### 2.1 Definition

Anti-monopoly and unfair competition refer to the phenomenon that some monopolistic behaviors and unfair competition behaviors appear in the market economy, which destroys the normal market competition order and the fair competition environment. Anti-monopoly problem mainly refers to the monopolistic behavior existing in the market, including monopoly pricing, abuse of dominant market position, restriction of competition and other behaviors. The problem of

unfair competition includes false propaganda, commercial slander, infringement of trade secrets and other unfair competition behaviors.

## **2.2 Background**

The emergence of anti-monopoly and unfair competition is closely related to the development of market economy. With the in-depth development of market economy, the market competition in all walks of life is increasingly fierce. In order to obtain more market share and profits,<sup>[1]</sup>enterprises often take some unfair means, destroying the fair competition environment. At the same time, some enterprises control the market resources and pricing power through monopolistic behavior, restricting the entry and development of other enterprises, resulting in the loss of fairness and efficiency of the market.

## **2.3 Significance**

The importance of antitrust and unfair competition issues is reflected in the following aspects:

### **2.3.1 Maintain market order and promote fair competition**

In the market, the existence of anti-monopoly and unfair competition destroys the order of fair competition, restricts the free competition of enterprises and infringes the choice of consumers' choice. In the face of these problems, the government should strengthen the supervision of anti-monopoly and unfair competition behavior, ensure the fairness and transparency of market competition, create a good market environment, and promote the steady development of the market.

### **2.3.2 Protect the rights and interests of consumers and safeguard social equity**

Anti-monopoly and unfair competition issues directly affect the interests of consumers. Monopoly behavior leads to enterprises to control the market, pricing autonomy is in the hands of enterprises, and consumers often fail to obtain fair price and quality. And unfair competition behavior is easy to mislead consumers, infringe on consumers' basic rights and interests such as right to know, choice and right to fair trade. Therefore, strengthening the supervision of anti-monopoly and unfair competition is conducive to protecting the legitimate rights and interests of consumers and safeguarding social fairness.

### **2.3.3 Promote economic development and achieve sustained growth**

The existence of anti-monopoly and unfair competition limits the fair competition in the market and hinders the innovation and development of enterprises. Only by strengthening the supervision of anti-monopoly and unfair competition, can we create a level playing field for enterprises, stimulate the innovation vitality and potential of enterprises, and promote the sustainable development of the economy. Fair competition is the cornerstone of economic development, and strengthening anti-monopoly supervision is a necessary means to promote economic development.

## **2.4 Effects and challenges**

In the current economic environment, anti-monopoly and unfair competition issues are facing some impacts and challenges. First of all, with the deepening development of economic globalization, the monopolistic behavior and unfair competition behavior of multinational corporations show the characteristics of diversification and complexity, which brings some difficulties to the regulatory work. Secondly, with the progress of science and technology and the

popularization of the Internet, new monopolistic behaviors and unfair competition behaviors emerge in endlessly, bringing new challenges to the regulatory work. Thirdly, some local governments lack effective supervision and law enforcement on the issues of anti-monopoly and unfair competition, leading to serious problems.

The problems of antitrust and unfair competition are of great significance and challenge in the current economic environment. Administrative law plays a regulatory and protective role in anti-monopoly and unfair competition. In order to better support this view, the subsequent chapters will discuss anti-monopoly and unfair competition from different perspectives, including the basic principles of administrative law, regulatory mechanism and enforcement means of law.

### **3. The role of administrative law in the antitrust issue**

In the current economic environment, the problems of anti-monopoly and unfair competition are increasingly prominent, which has caused a certain impact on the market order and fair competition. As an important legal means and governance mechanism, administrative law plays an important role in supervision and protection in anti-monopoly issues. This section will analyze and discuss in detail the mechanism of prohibition and sanction of administrative law and the duties and powers of administrative organs in anti-monopoly law enforcement.

#### **3.1 Prohibition and sanction mechanism of anti-monopoly acts by administrative law**

The prohibition and sanction mechanism of anti-monopoly behavior by administrative law is an important means to maintain market order and fair competition. Under the framework of anti-monopoly law, the administrative law defines a series of prohibited acts, such as monopoly agreement, abuse of dominant market position and monopoly acts,<sup>[2]</sup>etc. The definition and definition of these prohibited acts provide a clear basis for the administrative organs to carry out anti-monopoly law enforcement.

In the anti-monopoly law enforcement, the administrative organs may impose sanctions on the illegal acts according to the relevant laws, including imposing a fine on the illegal enterprises, ordering correction, compulsory separation and other measures. The administrative Law also stipulates the procedures and authority of the administrative organs in the anti-monopoly law enforcement, which guarantees the legality and impartiality of the law enforcement activities. For example, administrative organs can conduct procedures such as investigation, evidence collection and hearing to ensure the transparency and openness of law enforcement activities.

#### **3.2 Duties and powers of administrative organs in anti-monopoly law enforcement**

Administrative organs play an important role in anti-monopoly law enforcement, and their duties and powers are crucial to maintaining market order and fair competition. The administrative organs are mainly responsible for the supervision, investigation and sanctions of anti-monopoly acts to prevent the adverse impact of monopolistic acts on the market and consumers.

The administrative organ has the following duties and powers in anti-monopoly enforcement:

1) Supervision and investigation: The administrative organs are responsible for the supervision and investigation of monopolistic acts in the market, including the collection of relevant evidence, the investigation of enterprises and individuals suspected of illegal acts, and the investigation and verification of illegal acts.

2) Sanctions and penalties: the administrative organs may, in accordance with the relevant laws and regulations, sanction and punish the illegal monopolistic acts, including fines, ordered correction, compulsory separation and other measures. These sanctions and penalties are designed

to punish violations, restore market order and play fair.

3) Supervision and management: Administrative organs are also responsible for the supervision and management of monopoly behaviors in the market, including the supervision of the behaviors of market entities, the investigation and evaluation of the operation of the market, and the establishment and improvement of the anti-monopoly supervision system.

The duties and powers of the administrative organ in the anti-monopoly law enforcement shall follow the provisions of the law and ensure the legality and impartiality of the law enforcement activities. Administrative organs shall exercise their functions and powers in accordance with the law, act strictly in accordance with the law, and shall not abuse their powers or illegally exercise their power.

Administrative law plays an important role in supervision and protection in anti-monopoly issues. By banning and sanctioning monopolies, the administrative law maintains the market order and fair competition, and protects the rights and interests of consumers. Administrative organs play an important role in anti-monopoly law enforcement, and the exercise of their duties and power are very important for maintaining market order and fair competition. The application and development of administrative law is conducive to promoting the in-depth development of anti-monopoly work, and provides a strong legal guarantee for economic development and social progress.

#### **4. The role of administrative law in the issue of unfair competition**

This section will explore the regulatory and protective role of administrative law in the issue of unfair competition. Administrative law refers to the sum of the legal norms in which state organs exercise administrative powers, and mainly realizes the management and standardization of social and economic activities through the administrative acts of administrative organs. In the field of unfair competition, administrative law plays an important role. It not only cracks down on unfair competition through the prohibition and sanction mechanism of administrative organs, but also protects the market order and fair competition by regulating the duties and powers of administrative organs.

##### **4.1 Prohibition and sanction mechanism for unfair competition by administrative law**

###### **4.1.1 Prohibited mechanism of unfair competition behavior**

Administrative law regulates and restricts unfair competition through prohibition mechanism to maintain market order and fair competition environment. The prohibition mechanism is mainly implemented in the following ways:

1) Provisions on the prohibition of unfair competition acts: The administrative Law establishes a series of provisions prohibiting unfair competition acts through laws, regulations and rules. These regulations define the scope of unfair competition acts, such as false publicity, commercial slander and commercial bribery, and provide a basis for administrative organs to crack down on unfair competition.

2) Formulate a list of prohibited acts of unfair competition: The administrative law may also formulate a list of prohibited acts of unfair competition, clearly listing the specific manifestations of various illegal acts. By doing so, enterprises and individuals can know more clearly what is unfair competition behavior, and avoid the occurrence of illegal behavior.

3) Establishing channels for reporting and complaining of unfair competition: The Administrative Law also establishes channels for reporting and complaining, allowing victims and the public to report and complain of unfair competition to administrative organs. This can improve the discovery rate of unfair competition and strengthen the supervision of unfair competition.

### **4.1.2 Sanction mechanism for unfair competition acts**

The administrative law punishes unfair competition through the sanction mechanism to deter lawbreakers, maintain market order and play fair competition. The sanctions mechanism is mainly implemented through the following ways:

1) Administrative punishment: it is a common way of administrative law to punish the violators. Administrative punishment can be chosen in various forms, such as warning, fine, confiscation of illegal income, and revocation of licenses, according to the nature and circumstances of illegal acts, so as to play the role of punishment and deterrence.

2) Administrative compulsory measures: the administrative law can also take administrative compulsory measures to sanction the unfair competition behavior. Administrative compulsory measures include ordering to suspend production or business, ordering to correct, sealing up and detain, etc., which may directly interfere with the conduct of illegal acts and force the violators to stop the illegal acts and assume corresponding responsibilities.

3) Administrative responsibility investigation: The Administrative Law also sets up an administrative accountability system to investigate administrative organs and administrative personnel for dereliction of duty and dereliction of duty in law enforcement through unfair competition. In this way, administrative organs exercise their powers in accordance with the law and ensure the fairness and seriousness of law enforcement.

## **4.2 Responsibilities and powers of administrative organs in law enforcement with unfair competition**

The administrative Law stipulates the duties and powers of the administrative organs in the law enforcement of unfair competition, so as to ensure that the administrative organs can effectively perform their duties of supervision and protection.

### **4.2.1 Regulatory responsibilities**

The supervisory responsibilities of administrative organs in the law enforcement of unfair competition mainly include:

1) Supervision and inspection: Administrative organs have the responsibility to supervise and inspect market entities regularly or irregularly, and take corresponding law enforcement measures in time when unfair competition behavior is found.

2) Case investigation: for the reports and complaints suspected of unfair competition, the administrative organ shall file a case for investigation, find out the facts according to law, and take corresponding sanctions measures.

3) Coordination and handling: administrative organs also have the responsibility to coordinate and handle unfair competition disputes, protect the legitimate rights and interests of the victims, and maintain market order.

### **4.2.2 Law enforcement powers**

Administrative organs have certain law enforcement power in the law enforcement of unfair competition in order to effectively perform their duties of supervision and protection.

1) Right of inquest and investigation: an administrative organ may, according to law, conduct an inquest and investigation of the places and articles related to acts of unfair competition, find out the facts and collect evidence.

2) Inquiry power: the administrative organ can ask the relevant parties and witnesses to understand the situation of the case and the truth.

3) Right to seal up and detain: the administrative organ may, according to law, seal up and detain the places and articles suspected of unfair competition, so as to prevent the evidence from being tampered with or destroyed.

4) Power of punishment: administrative organs may impose administrative penalties on those who violate the law in order to stop acts of unfair competition and maintain market order.

Administrative law plays an important role in the problem of unfair competition. Through the prohibition and sanction mechanism, the administrative law regulates and restricts the acts of unfair competition, and by stipulating the duties and powers of the administrative organs, the administrative law ensures that the administrative organs can effectively perform the duties of supervision and protection. The application of administrative law provides an important legal guarantee for cracking down on unfair competition, maintaining market order and a level playing field.

## 5. Comparative study on antitrust and unfair competition

This section will compare the similarities and differences between the antitrust and unfair competition issues. By analyzing the cases and regulations, we will explore the differences between antitrust and unfair competition in the application of the law and in the law enforcement agencies, and the impact on the economic order.

### 5.1 Differences in the application of the law

There are some differences in the application of the law on antitrust and unfair competition issues. *As shown in Table 1* First of all, the anti-monopoly law mainly aims at the monopolistic behavior in the market, aiming to maintain the order of market competition and prevent market players from abusing their dominant market position. The law of unfair competition focuses more on regulating the fair competition behavior between market subjects and protecting the interests of consumers and market order. Therefore, in the application of law, the anti-monopoly law pays more attention to the fairness of market competition, while the unfair competition law pays more attention to the code of conduct between market subjects.

Secondly, there are also differences in the scope of the application of the law. The anti-monopoly law is mainly applicable to the monopoly behaviors existing in the market, while the unfair competition law covers a wider range, covering more unfair competition behaviors, such as false publicity, commercial bribery, commercial slander and so on.

### 5.2 Differences in law enforcement agencies

There are also some differences between the law enforcement agencies over antitrust and unfair competition issues. *As shown in Table 1* Antitrust issues are generally handled by specialized antitrust enforcement agencies or regulatory agencies, such as the State Administration for Market Regulation and the US Federal Trade Commission. These agencies have independent law enforcement powers and investigative ability to investigate, punish and regulate monopolistic behavior.

However, the law enforcement agencies of unfair competition are relatively scattered, and there are some differences in the establishment and responsibilities of law enforcement agencies in different countries. In China, the problem of unfair competition is mainly supervised and punished by law enforcement agencies such as the State Administration for Market Regulation and the State Intellectual Property Office. In the United States, unfair competition involves more law enforcement agencies, including the Federal Trade Commission, the Federal Communications



Commission, and the Consumer Financial Protection Agency.

### 5.3 Influence on the economic order

Anti-monopoly and unfair competition problems have a certain influence on the economic order, but the direction and degree of the influence are different. *As shown in Table 1* The solution of anti-monopoly problems can maintain the fairness and freedom of market competition, promote the innovation and development of enterprises, so as to promote the healthy development of economy. By breaking monopoly, anti-monopoly law can promote the effective allocation of market resources and improve the level of social welfare.

The existence of unfair competition will destroy the order of fair competition in the market, damage the rights and interests of consumers, and hinder the normal operation of the market. Unfair competition may lead to market information asymmetry, and consumers cannot obtain real product information, and then affect consumers' purchase decisions. Therefore, the solution of the problem of unfair competition can maintain the market order, protect the rights and interests of consumers, and promote the stability and development of the market.

There are some differences in the application of law and the law enforcement agencies of antitrust and unfair competition. At the same time, their influence on the economic order is also different, but they both play an important role in the fairness of the market competition and the maintenance of the market order. *As shown in Table 1* Therefore, the supervision and protection role of administrative law in anti-monopoly and unfair competition issues cannot be ignored.

Table 1: Comparison of antitrust and unfair competition

Compare the key points	Anti-monopoly issues	The issue of unfair competition
Differences in the application of the law	Mainly for monopolistic behavior	Standardize the fair competition behavior among market entities
Scope of legal application	Monopoly behavior	Unfair competition acts, such as false publicity, commercial bribery, etc
Differences in law enforcement agencies	Specialized antitrust enforcement agencies or regulatory agencies	Law enforcement agencies are relatively scattered, and different countries have different settings and responsibilities
Impact on the economic order	We will maintain the fairness and freedom of market competition and promote healthy development	We will maintain market order, protect the rights and interests of consumers, and promote market stability and development

## 6. Enlightenment of administrative law on anti-monopoly and unfair competition

As a legal discipline that studies government administrative activities, administrative law plays an important role in the supervision and protection of anti-monopoly and unfair competition. This section will summarize the role and experience of administrative law in the problems of anti-monopoly and unfair competition, and put forward suggestions for further improvement of administrative law, so as to better deal with the problems of anti-monopoly and unfair competition, and maintain fair competition and market order.<sup>[3]</sup>

### 6.1 Administrative law enlightenment in anti-monopoly issues

In the field of anti-monopoly, the administrative law supervises and restricts the monopoly behaviors in the market by setting up anti-monopoly authorities, formulating anti-monopoly rules and implementing anti-monopoly law enforcement. The enlightenment of administrative law on anti-monopoly issues is mainly reflected in the following aspects:

#### 6.1.1 Establish an effective anti-monopoly agency

Administrative law enlighten the need to establish effective anti-monopoly agencies to ensure the

independence and professionalism of anti-monopoly law enforcement. The anti-monopoly authorities shall have strong law enforcement power and be able to investigate, collect evidence and punish monopolistic acts. In addition, the anti-monopoly authorities should also work closely with other administrative organs and judicial agencies to form a synergy in anti-monopoly law enforcement.

### **6.1.2 Formulate scientific and reasonable anti-monopoly rules**

Administrative law reveals that we need to formulate scientific and reasonable anti-monopoly rules to clearly prohibit monopolistic behaviors and restrict competition behaviors. Anti-monopoly rules should be clearly defined and operable, so that anti-monopoly authorities and enterprises can correctly judge monopolistic behavior and restrict competition behavior,<sup>[4]</sup> and avoid misjudgment and abuse of law enforcement power.

### **6.1.3 Strengthening the intensity and effect of anti-monopoly law enforcement**

Administrative law reveals that we need to strengthen the strength and effect of anti-monopoly law enforcement to crack down on monopolistic behavior and limit competition behavior. Anti-monopoly law enforcement shall be timely, fair and strict, illegal acts shall be seriously investigated and dealt with, and violators shall be punished appropriately. At the same time, anti-monopoly law enforcement should pay attention to the investigation and evidence collection work, to ensure the scientificity and accuracy of law enforcement decisions.

## **6.2 Enlightenment of administrative Law in unfair competition**

In the field of unfair competition, the administrative law supervises and restricts unfair competition behaviors in the market by establishing unfair competition regulatory agencies, formulating rules for unfair competition and implementing supervision over unfair competition. The enlightenment of administrative law to unfair competition is mainly reflected in the following aspects:

### **6.2.1 Establish a sound regulatory authority for unfair competition**

The administrative law reveals that we need to establish a sound unfair competition supervision agency to strengthen the supervision and punishment of unfair competition behavior. The regulatory authorities of unfair competition shall have professional law enforcement personnel and sufficient law enforcement resources, and be able to timely detect and investigate unfair competition acts and maintain the order of fair competition in the market.

### **6.2.2 Perfect rules of unfair competition**

Administrative law revelation us need to improve the unfair competition rules to clearly prohibit the unfair competition behavior and restrict competition behavior. The rules of unfair competition should be clearly defined and operable, so that the unfair competition regulators and enterprises can correctly judge the unfair competition behaviors and restrict the competition behaviors, and avoid misjudgment and abuse of law enforcement power.

### **6.2.3 Strengthening the intensity and effect of supervision over unfair competition**

Administrative law reveals that we need to strengthen the strength and effect of unfair competition supervision to crack down on unfair competition behavior. The supervision of unfair competition shall be timely, fair and strict, and the illegal acts shall be seriously investigated and punished, and the violators shall be punished appropriately. At the same time, the supervision of



unfair competition should strengthen the monitoring and early warning of the market, and timely discover and eliminate the influence of unfair competition acts.

### 6.3 Suggestions for further Improvement of administrative Law

In order to better deal with the problems of anti-monopoly and unfair competition, and to maintain fair competition and market order, we put forward the following suggestions for further improving the administrative law:

1) The State shall strengthen the research and education of administrative law, improve the quality and ability of administrative law professionals, and enhance the application ability of administrative law in anti-monopoly and unfair competition issues;

2) The legislature should improve the legislative and enforcement mechanisms of administrative law, establish a scientific and reasonable anti-monopoly and unfair competition legal system, and improve the efficiency and fairness of law enforcement;

3) China should strengthen the international exchange and cooperation of administrative law, learn from the experience of other countries and regions in anti-monopoly and unfair competition law enforcement, and enhance the international influence and competitiveness of our administrative law;

4) China's judicial organs and legal scholars should strengthen the theoretical research and practical exploration of administrative law, promote the innovation and development of administrative law, and provide theoretical support and practical guidance for the solution of anti-monopoly and unfair competition problems.

Administrative law plays an important role in the supervision and protection of anti-monopoly and unfair competition. Through the establishment of effective anti-monopoly agencies, formulate scientific and reasonable antitrust rules, strengthen the anti-monopoly law enforcement and effect, and establish and improve the unfair competition regulators, perfect the unfair competition rules, strengthen the regulation of unfair competition and effect, we can better cope with the antitrust and unfair competition, maintain fair competition and market order. At the same time, we also put forward suggestions for further improvement of administrative law to promote the continuous development and innovation of administrative law.<sup>[5]</sup>

## 7. Conclusion

Administrative law plays a vital role in the issue of antitrust and unfair competition. By improving the legal system, strengthening administrative law enforcement, establishing information sharing mechanism, enhancing public awareness and promoting international cooperation, the market order and fair competition can be effectively maintained, and the interests of consumers and social public interests can be protected.

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