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Regulating Competition in the Digital Platform Economy: Russia and China Compared

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ABSTRACT

In many countries, the rapid evolution of digital platform technology has triggered significant shifts in competition law. Many have interpreted China's recent moves as signaling a broader crackdown on private entrepreneurship. In Russia, even before the invasion of Ukraine, government policy became increasingly restrictive toward foreign internet platforms. This paper analyzes the development and enforcement of competition law in Russia and China. We show that both technologically driven changes in the ability of digital platform firms to exercise market power and changes in the external political environment affect the relative strength and coalitions of interested bureaucratic actors and influence policy outcomes.

Regulating Competition in Digital Markets

Introduction

In Russia and China, as in the United States, the European Union, and many countries around the world, the rapid technological evolution of digital platform companies has triggered significant shifts in competition law and related regulatory policies.¹

Many foreign investors have interpreted the recent moves in China as signaling a broader crackdown on entrepreneurship, private capital, and technological innovation (e.g. Wei 2021; Yang, Keith and Webb 2021; Economist 2021). Likewise under President Vladimir Putin, and particularly since the beginning of Russia's war in Ukraine, the Russian regime has imposed progressively tighter restrictions on access to independent news and opinion. Harsh controls on content carried in Russian and foreign news and social media sites, declarations of entire sites as "extremist," and requirements that internet service providers be held legally culpable for content posted on their sites, have been sharply intensified since the invasion began on February 24, 2022.² For example any reference to the use of the word "war" with respect to the Russian military campaign in Ukraine, or publication of unauthorized information about casualties, was grounds for criminal prosecution.

Efforts by authoritarian governments to control the content of communications channels are neither new nor surprising. In communist regimes, the party exercises comprehensive ideological control over all communications in order both to suppress discordant information and viewpoints, but also to inculcate values and opinions congruent with the regime's political interests. While the spread of digital communications technologies certainly has changed the ways people share information and ideas and therefore has compelled authoritarian regimes to adopt new forms of control, the fundamental need to preserve control, both by denying access to undesirable

content and through political socialization and communication, remains the same.³

Likewise, the degree of state control over private sector actors in the economy has been a matter of continuous political contention in both countries since market reforms began. As the Chinese proverb puts it, "the state advances, the people retreat" (*guo jin min tui*) (Fewsmith 2013; Lardy 2019; Aslund 2019). Under both Xi and Putin, the state sector has expanded its control over strategic sectors relative to the private sector. The "Made in China 2025" plan released in 2015 pushes for rapid advances in 10 core areas of advanced technology and uses control over investment to ensure that China would become the world leader in all of them (Zenglein and Holzmann 2019). Both regimes have declared that they actively seek to encourage technological innovation to advance their countries' global markets, but both also want to maintain control over the use to which technological innovation is put.

Our paper proceeds from the premise that competition policy in both Russia and China serves more purposes than those of maintaining regime political control over society or curbing the autonomy of the private sector and is set by political processes that cannot be reduced to a simple model of autocratic control. We argue that recent policies are the outcome of processes of bureaucratic politics under conditions in which the rapid evolution of digital technologies as well as changes in the political environment altered the relative strength of coalitions of major bureaucratic and political interests. We therefore treat the state as an arena of bureaucratic politics comprising government agencies and industry groups as players with discernible policy objectives. Both technologically driven changes in the ability of digital platform firms to exercise market power and changes in the external political environment affect the relative strength and coalitions of these actors and therefore affect policy outcomes.

Decision-Making Arenas

Russia and China share a common institutional legacy of communist rule. China's party-state system is based on the model developed under Lenin and Stalin. Although the post-Soviet Russian regime discarded the ruling party model, it has retained many other crucial features of the communist system, including suppression of open political competition and the use of the agencies of coercion for political control. The old dual control system of party and government has been recreated in the relationship between the presidential administration and the government. Both countries have opened some sectors of their economies to market forces. Because the immense size of both countries poses span-of-control challenges for the center, national markets and market actors serve as counterweights to the power of regional governments but create their own challenges to the governments' control over the economy. Yet despite the parallels between the two cases, comparative treatments are relatively few and none, so far as we know, have examined the evolution of competition policy in a comparative perspective.

Broadly speaking, the policymaking process in both Russia and China may be characterized as bureaucratic-authoritarian (Gilli, Li, and Qian 2018; Remington 2018). With respect to competition law, the arena of decision-making power in both Russia and China comprises the government agencies vested with the power to enforce competition law and the other state bodies with authority over related issues, with major state and private firms and industry associations as recognized participants in the policy process.

The political and policy environment is competitive but confined to state bodies, both agencies of government and state-owned corporations (SOEs), as well as recognized private sector interests. Competition for power among self-interested agents manifests itself in part as competition over policy choices. The process plays out at three levels. At the top are the political decision-makers such as the government and presidential administration in Russia and the State Council and the party leadership in China. At the next level is a set of government agencies that include the principal competition authority, or CA (State Administration for Market Regulation [SAMR] in China; Federal Antimonopoly Service [FAS] in Russia) and a set of sectoral regulatory bodies with jurisdictions in specific industries—consumer protection; financial regulation; digital technology; industrial policy; and the like. A major commonality between Russia and China is the continuous contest between the CA and the sectoral regulators as well as, in China, the CA and other ministerial-ranked regulators at the national level, and regulators at the local level. The CA is institutionally committed to enforcing broad principles of antimonopoly law, while the sectoral/local regulators seek to protect their jurisdictions and advance the economic interests of the industries they oversee.

The third tier comprises industry players, including private commercial companies and state-owned entities that have also entered particular markets, such as digital payments. These commercial entities differ in size and market power. Some, seek to ally themselves with the CA in order to protect their market share in their markets, from foreign competitors, or from other business interests such as retailers. In Russia more than in China, some companies pursue their interests collectively through business associations.

The game consists of a series of shifting alliances among government agencies and industry actors. The CA can expand its authority over the enforcement of competition law to the extent that the top leadership tier and a group of influential industry interests support it against dominant platform companies with threatening market power (in Russia—especially when dominant platforms are foreign). When the top leadership and industry prefer sectoral regulation, the CA tends to lose out in the contest for influence over competition policy. When the top leadership regards stringent enforcement of competition law as important for achieving its overall policy purposes, including curtailing the power of internet companies that threaten core interests, then the CA receives a stronger mandate. In Russia and China, as a result, legislation evolves through the amendment of existing framework laws as well as through a series of government-set regulatory rules and guidelines. These rules tend to change as new coalitions become ascendant.

The outcomes of policymaking depend on the relative strength of the coalitions of state administrative bodies with one another and with major industry groups such as business associations or quasi-public think tanks. These actors take policy positions based on the anticipated effects of policy alternatives for their interests. Their advocacy remains within the limits of permissible public debate. They also seek to build coalitions of bureaucratic supporters.

Participants act strategically to advance their policy goals, using the resources available to them in order to claim and defend jurisdictional authority as new issues arise and to form alliances with other participants in the process. A ministry that oversees a particular industry sector may regard its mission as defending the interests of that sector. In both China and Russia, the government's general interest in protecting the domestic market against foreign competitors and in enabling the country's own internet platform companies to serve as national champions has tended to counter the efforts of the competition authorities in both countries to strengthen their own powers to enforce competition law.

In both countries, we observe tension between efforts to set general rules applicable to the enforcement of competition in the marketplace and conflicting efforts to tailor rules specific to particular industries. Often the CAs assert their power by claiming the authority to frame broad principles aimed at strengthening competition, whereas, depending on the institutional environment, other actors such as branch ministries counter by establishing rules for market conduct in the sectors they oversee. The latter efforts may take the form of price-setting and other regulatory measures, or contrariwise, efforts to protect the ability of the given sector to compete successfully at home and abroad.

Impetus for Policy Change

What has brought about the rapid change in national policies toward stricter enforcement of competition law for digital platform companies? In Russia and China, different political factors are relevant. Both countries' competition law enforcement has been challenged by the penetration of American firms into their markets. However, China adopted some protectionist measures before the recent worldwide concerns arose, whereas

Russia, until recently, took a hands-off position. In China, this changed beginning in 2014 and particularly after 2018, as trade tensions between the United States and China mounted. In Russia, change was apparent even before the invasion of Ukraine, as the authorities, for example, warned Google and Apple against carrying the Navalny “smart voting” app.⁴ In both countries, the balance of forces in the political arena shapes the overall direction of competition policy as well as the treatment of particular high-profile cases.

The immense market power acquired by digital platform companies has shaped the alignment of interests with respect to the digital economy, not only in Russia and China. Digital platforms have disrupted many industries. They serve as platforms for some activities, such as e-commerce or payments, while at the same time engaging as market players themselves. They have transformed search and social communications. Moreover, they use the data they collect about consumers to tilt the market in their favor, for example by undercutting the ability of other companies to sell similar products and services on their platforms. In most countries, national competition law has struggled to respond. One basic line of the dispute has been over the degree to which market dominance by the tech platforms benefits consumers through lower prices and greater convenience, or serves governments’ interest in promoting national champions in international markets, as opposed to gaining unfair advantages in multiple markets by impeding rivals’ access to the market, pricing their services to consumers low by monetizing their consumers’ behavior, threatening individual privacy, and swaying public opinion.

Both demand (such as positive cross-platform network effects) and supply (economies of scope and scale) factors have enabled the digital platform companies to acquire substantial market power in relatively short order. The literature identifies several factors that distinguish digital information markets from those developed in previous waves of technological innovation that previous competition law regimes were developed to address. One is network externality effects, both direct and cross-platform, which explain the comparative advantages of larger companies and deter market entry by potential rivals. Second are first-mover effects combined with high entry costs for rivals, the non-decreasing costs of scale in disseminating digital data, and the rising returns to scale in the value of accumulated personal data. Moreover, digital platforms are both sellers and gatekeepers in adjacent markets. They can invest resources into making their pages load faster and can enter other markets at a loss in the hope of acquiring a market advantage there as well (Furman et al. 2019; Hindman 2018; Morton et al. 2019). Notwithstanding the claim by Google that “competition is just a click away,” the realities of digital marketplaces make it extremely difficult for would-be competitors to check their market power. Likewise, the benefits to consumers from the ability to use the services of the digital platform companies for search, social networking, e-commerce, and digital payments at no cost come at a very high but often indirect cost. This cost includes the loss of rights to ownership or control of personal data and the ability of digital platforms to manipulate consumer preferences.

Some critics raise still other concerns. Digital platforms have demonstrated their ability to displace entire incumbent

industries, including brick-and-mortar retail commerce and credit institutions as financial intermediaries. The line between Schumpeterian “creative destruction” and abuse of market dominance by digital giants that can leverage their immense data resources to enter adjacent markets can be a fine one, but antimonopoly and other competition enforcement authorities must decide where to draw it.

In the following sections, we outline the ways in which each country has dealt with the new challenges arising from the digital platform companies. We seek to discover how a common set of developments—the rise of market power by the digital platform companies—affects competition policy in two different institutional environments. We analyze official actions by each country’s competition authorities as well as those of other participants in the policymaking arena. Our focus is on the strategic interaction of these participants, particularly the way they have asserted new powers to apply competition law and other regulatory authority to deal with the digital economy.

Competition Law and the Digital Platforms in Russia

Competition Policy in Russia: The Institutional Setting, Triggers of Change, and Initial Results

In Russia, the first competition legislation entered force in 1991. A more recent law, “On Protection of Competition,” was adopted in 2006, and a law on penalties that both raised penalties for violations and opened the possibility of criminal prosecution for violations of standards for monetary penalties was adopted a year later. The new competition law is closer to European law and German competition law than to the US one in that it treats market access for rivals as being as important as consumer welfare as a standard for enforcement.

The debate about the desired path of competition policy over last two decades has proceeded along three axes. First is that of “traditional” or “mainstream” antitrust thinking as opposed to a more nationally specific model of competition policy. Here the prevailing point of view is that BRICS countries face specific challenges in the area of competition, and should set their own agenda, separate from international antitrust. Second is the traditional “right-left” debate over the degree to which private firms should be restricted by the government. The third dimension is over “antitrust vs. regulation.” A comprehensive framework combining the left, BRICS-specific, and pro-regulatory approaches has been developing. Its positions reflect a critique of mainstream antimonopoly thinking comparable to that of the new Brandeisians in the United States.

Russia’s competition authority, the Federal Antitrust Service of the Russian Federation (FAS Russia), consists of a central office and regional subdivisions. These have independent enforcement power, and apply competition law using the administrative model, that is, they have the power to investigate, make decisions, and impose penalties. In addition to penalties, FAS Russia often imposes remedies requiring changes in the offending firm’s conduct. In addition, FAS Russia may use precautions and warnings which can lead to extended investigations and decisions if a company does not

end the challenged practices. Precautions and warnings are applicable only to the types of conduct that are not per se illegal (i.e. they are not classified as price-fixing).

Infringement decisions, decisions on penalties, and remedies are subject to judicial review. Easy access to judicial review, allocation of the burden of proof to the administrative authority, and fast litigation tend to encourage companies to litigate to annul infringement decisions. About a quarter of FAS decisions are appealed in commercial court; larger companies submit claims to appeal almost every time they are found to violate the law. In turn, courts annul from a quarter to a third of all decisions submitted for review (Avdasheva, Golovanova, and Katsoulacos 2019). Judicial attitudes toward competition issues vary across judges and types of conduct. In general, the Russian Supreme Court tends to push judges to be more sympathetic to the companies, to use contextual analysis more often, and to impose a heavier burden of proof on FAS. Russian commercial courts have gradually moved in this direction, favoring the protection of “freedom of contract” over the right of public intervention.

FAS believes that the courts apply excessively high legal standards in reaching their decisions, and use too formalistic an approach. For that reason, the competition authority considers the exact wording of the law to be important. In recognition of the importance of competition issues regarding digital platforms, FAS initiated relevant changes and amendments of the law, known as the 5th antimonopoly package.

Note that FAS Russia undertakes enforcement actions toward digital platforms irrespective of specific changes in competition law. An important legal action toward competition between digital companies was the infringement decision about Google’s Mobile Applications Suite (GMS) tying and exclusionary conduct (2015, upheld in court), followed by investigations, decisions, and precautions on international and domestic digital companies Microsoft (2017, 2019), Apple (2020), Booking.com (2020), and Yandex (2021). Decisions on mergers in the digital sector include conditional approval of the Uber–Yandex joint venture (2017) and a veto on a Yandex–Vezet merger (2019 (see also Pavlova et al, 2020; Golovanova and Pontual Ribeiro 2021) followed by eventual approval of the restructured transaction. [Table A1](#) lists the most important competition cases regarding digital platforms in Russia. However, FAS’s legal initiatives have been only a part of the development of policy changes regarding digital platforms.

Until recently, privacy and personal data protection have not figured prominently in the competition policy agenda. There are several explanations. First, rights in the area of personal data are protected by a 2006 law, “On Personal Data.” Much of this law follows the rules of the Council of Europe Data Protection Convention (or Strasbourg Convention) and establishes strict procedures applying to every operator (processor) of data in Russia. In particular, every data transaction must have the informed consent of the object of data. Several rules of the Convention are amplified in Russian law. For instance, unauthorized processing of some personal data (race, nationality, religion, views, health, or sex) is strictly prohibited. Second, transactions of data are still considered first of all as an issue of security, including “digital

national security.” Several legal requirements (for instance, on the localization of databases with personal data of Russian users) are tailored specifically for security purposes.

The legislative amendments proposed by FAS have been shaped by the strategic interaction on the part of several government bodies, including the Ministry of Economic Development (MinEcon); Ministry of Digital Development, Communications and Mass Media (MinTsya); the Federal Antimonopoly Service (FAS), and the Federal Agency for Consumer Protection (Rosпотребнадзор). In addition, industry interest groups seek to affect policy as well, among them business associations such as Domestic Soft and RusSoft, which represent Russian software developers; RATEK, the association of trading companies and manufacturers of electrical household and computer equipment; and ACORT, the retail companies’ association.

Another association is the public–private group called “Digital Economy Russia 2024,” which comprises representatives of government agencies, the presidential administration, and business, and is responsible for ex-ante evaluation of every legal initiative concerning software, digital markets, and mass media. Its structure and responsibilities make it the principal institutional platform for lobbying as well as the promotion of government initiatives.

In general, the movement in antimonopoly policy in the digital industry has been from complex initiatives in the area of general competition enforcement, with only limited protectionist effects, to largely regulatory and protectionist interventions. The major spurs for action have been external: for legal changes in competition and regulatory rules it was the conflict of the United States with Huawei in 2019.

Early Cases

Beginning around 2014, cases involving the payment card market made it evident to FAS that the specific features of multi-sided platforms needed to be addressed by competition policy. Accordingly, FAS launched an investigation of Google in 2014 on the basis of complaints brought by the domestic digital platform Yandex, the main search engine used in Russia (see [Table A1](#)). After failing to get the initial infringement decisions overturned, Google agreed during an appellate-stage hearing to sign a commitment decision with FAS. It required renouncing revenue-sharing agreements (RSAs) and strong antifragmentation (AFR) requirements for mobile devices to be sold in Russia. In the short run, the FAS decision was effective: Yandex’s share of the domestic market for search increased through mid-2018.

Another case arose in 2017 over the proposed merger of Uber and Yandex. FAS approved it conditionally. The parties were obliged to allow taxi drivers and taxi companies to switch between different digital applications. The parties accepted the remedies.

These cases illustrate the difficulty of delineating affected markets and developing a theory of harm in digital sectors in terms of competition law. In these early cases, though, FAS did not fully recognize the multi-sided nature of the markets or platform. Neglecting network effects under analysis, the CA faced difficulty in developing a proper theory of harm

supported by empirical evidence (Golovanova and Pontual Ribeiro 2021).

This problem is hardly unique to Russia. In Russia, however, there is an additional dimension. Due to their limited experience of competition enforcement, both the authorities and judges in commercial courts take a relatively formalistic approach to matching the facts of a particular case to the precise wording of the law. Therefore, it is difficult to apply standard theories of harm in investigations of digital platforms, which raise issues of network effects, specific pricing in multi-sided platforms, leverage of market power, single vs multi-homing, and so on, and other concepts not specifically defined in the law “On Protection of Competition.”

FAS announced the development of amendments devoted to digital markets in December 2017. The initial concept introduced the concept of network effects, qualifying strong network effects as a sufficient condition for dominance, as well as a special notion of pricing algorithm, rules on abuse of dominance using big data, and the possibility to impose competition remedies in order to establish rules for nondiscriminatory access to big data collected by digital platforms.⁵ The draft law also lifted the safe harbor provision for intellectual property rights (IPR) in Russian competition law.⁶

App developers in particular support the amendments incorporating the new concepts of dominance and competition enforcement toward digital platforms. The Domestic Soft business association and RusSoft (Russian Software) business association support amendments on the dominance of digital platforms, want big data to be a target for competition enforcement, demand nondiscriminatory access to platforms, and seek lifting of the exemptions for IPR from competition law. Representatives of this group were pleased by the effects of FAS’s cautionary warnings against Microsoft (2017), and hoped for further support of their bargaining positions in the commercial disputes with international digital platforms.

In February 2018, the new draft of the 5th antitrust package was released. Market participants soon realized that despite the apparently technical nature of the changes (apart from the removal of the exemption for IPR, it only contained several new definitions), the 5th antitrust package in fact would substantially expand the enforcement rights of FAS.

If the law is enacted, many mergers with digital companies would become targets for antitrust scrutiny. A case in point is a joint venture of state-owned Sberbank and Yandex (2018). Under the traditional approach and the law in force, there would be no call for an economic analysis of the effects of the merger, because the markets do not overlap. However, FAS takes the position that if data is regarded as an economic asset and digital platforms are defined as sites that organize direct and indirect transactions between parties, the deal is indeed subject to competition enforcement. FAS also required the use of compulsory licensing of digital solutions as a part of its remedies, and spelled out rules for nondiscriminatory access to data. These decisions had the potential of winning the support of domestic developers hoping to gain access to the databases built by Microsoft and Apple.

At this point, the Russian companies that are active in the digital economy recognized that they could also become targets of competition investigations. Aware that each year FAS issues

several hundred infringement decisions and several precautions on abuse of dominance (Avdasheva 2019), many companies in the industry feared that the very notion of a cross-platform network effect as a source of dominance in the anti-trust sense could lead to a new wave of abuse of dominance investigations.

As a result, and surprisingly for FAS, most of them opposed the 5th antitrust package. First, in March 2018, the state-business association Digital Economy Russia 2024, which is responsible for evaluating all legal initiatives in the digital sector, issued a negative assessment. One firm in this association wrote a letter to Prime Minister Dmitry Medvedev urging him to reject the 5th antitrust package on the grounds that it created a threat that could be used for the benefit of a particular group of digital businesses at the expense of the most innovative companies. Then in October 2018, the Ministry of Economic Development (MinEcon) joined them by issuing a negative regulatory impact assessment of the 5th antitrust package. According to MinEcon, the draft law imposes an excessive burden on a broad group of companies that use digital infrastructure. It does not allow for effective discrimination between dominant market participants: formally every marketplace can be considered dominant.⁷

During the public phase of discussion of the proposed legislation in 2018, the Ministry of Digital Development (MinTsyfra) offered no comments. However, it sought to seize the initiative from FAS by using two complementary initiatives of FAS that dealt with Apple. One was a rule requiring compulsory pre-installation of only domestic software on computers, tablets, mobile devices, smartphones, and smart TVs.⁸ The other would require the removability of every piece of software and app pre-installed on devices sold in Russia. MinTsyfra introduced its own version of one of these laws as an amendment to the law “On Communications.” It thus fell outside competition law entirely.

The conflict between Huawei and Google in 2019 further heightened the political salience of “digital sovereignty” and “digital national security” issues. In this context, at the end of 2019, the so-called “weak anti-Apple law” was signed by president Putin.⁹ However, neither FAS nor MinTsyfra, but the Russian Federation Government itself, claimed the responsibility to select the apps for compulsory pre-installation. In this way no sectoral authorities received explicit additional power in the digital sector. Most business associations supported this initiative, with the exception of RATEK, which represents retailers of electrical household and computer equipment, and expects losses due to increasing cost. This step deprived FAS of the support of Russian developers. Because their demand for protection vis-à-vis foreign competitors was satisfied, they no longer looked to FAS for favorable interpretation of competition law.

In early 2020, the law “On Consumer Protection” was amended to provide that contracts on a transaction platform are public contracts. Under Russian contract law, this means that the Russian Government may enforce rules on nondiscriminatory access to them. This move satisfied the demand of smaller participants in digital markets for protection from what they may perceive as exploitative practices of large digital platforms. This group of FAS allies thus gained access to

government regulatory protection through instruments outside of FAS's purview. As a result, they had still less reason to support the FAS version of the 5th antitrust package. The prospects for its adoption were further dimmed when the long-time head of FAS, Igor Artemev, was dismissed in November 2020.

The Landscape after the Battle: Legal Rules on Competition in Digital Platform Sectors in Russia

Currently, efforts to develop new competition rules for digital platforms in Russia have been almost completely crowded out by specific sectoral rules. These rules emerged from strategic interaction between executive authorities that compete for jurisdictional authority by appealing for support from firms in the sectors they oversee. In this bureaucratic competition, consumer interests tend to go underrepresented. This dynamic helps to explain why protectionist sector-specific regulation has been winning out over more general competition rules. Moreover, the uncertain enforcement of competition rules weakens the interest that interest groups have in supporting stronger competition law. As a result, both the competition authority and a more general regime for enforcing competition law have been weakened.

The outcome of this strategic interaction remains uncertain. There is no strong reason to expect that the proposed 5th antimonopoly package would increase the capacity of the Russian competition agency to enforce competition law more effectively in the digital economy. Moreover, it is likely that the 5th antitrust package will be enforced in such a way as to protect specific interest groups and in a way that is simultaneously excessive and inefficient.

We conclude, therefore, that due to the institutional environment in Russia, where ministerial rivalry is the primary arena in which competition law is shaped, new legal rules intended to address the distinctive problems of competition in digital markets are developing in a framework of sectoral regulation rather than competition law.

Competition Law Enforcement against Digital Platforms in China

Introduction

Competition laws have been implemented in China since 1980 (see Appendix). However, public enforcement of antimonopoly law only began in 2008 when the most systematic competition law, the Anti-Monopoly Law (AML), was enacted. The AML draws elements from both the US and European Union (EU) competition laws, though it is more closely related to the EU model (US-China Business Council 2014). The AML prohibits monopolistic behavior including collusive agreements, excessive market concentration, abuse of market domination, and administrative monopoly.

The structure of public enforcement of antitrust law in China is two-tiered. The first tier is the Anti-Monopoly Commission under the State Council. The Anti-Monopoly Commission reports directly to the State Council and is responsible for promulgating guidelines and coordinating the work of antimonopoly enforcement authorities.

From 2008 until 2018, the second tier of public enforcement bodies comprised three antimonopoly enforcement government departments: National Development and Reform Commission (NDRC), State Administration for Industry and Commerce (SAIC), and the Ministry of Commerce (MOFCOM). In March 2018, State Administration for Market Regulation (SAMR) was established as the single government agency responsible for enforcing AML.

The Chinese antitrust regulatory agencies generally were not active in enforcing the law with respect to digital platforms. For more than a decade, from 2008 until 2019, the authorities did not pursue a single case against the digital platforms.

Since 2020, however, there have been several significant cases of antitrust enforcement against digital platforms, as we outline below. Further, the central leadership has been involved in the competition law enforcement. At a Politburo meeting in December 2020, it was officially declared that China would work to prevent “disorderly capital expansion” by intensifying “anti-monopoly supervision” (<https://www.bloomberg.com/news/articles/2020-12-11/china-s-politburo-vows-to-strengthen-anti-monopoly-efforts>). At a top-level meeting in August 2021, Chinese president Xi Jinping emphasized that it was critical to strengthen competition law enforcement (<https://www.bloomberg.com/news/articles/2021-08-31/xi-approves-action-on-everything-from-monopolies-to-pollution>).

The regulatory changes intensifying antitrust enforcement are likely to continue. A document titled Antitrust Guidelines for the Platform Economy Industry was released in February 2021 (http://gkml.samr.gov.cn/nsjg/fldj/202102/t20210207_325967.html). In this document, for internet companies, SAMR rulings on market dominance would be required to take into account features of digital platforms including network effects, lock-in effects, economies of scale, and the volumes of data resources.

In China, four aspects of the institutional environment are particularly important for explaining the recent regulatory changes in antitrust enforcement against digital platforms. First, the antitrust authorities themselves use competition policy in the new sphere of digital platforms in order to defend and advance their own bureaucratic power. Second, with the growing China-US tension in security, trade, and technology, innovation and cyber security have become an increasing concern for the government. The US-China tension has exposed China's vulnerability to its reliance on foreign technology and imports of high-tech products, including chips. The government is encouraging platforms to devote more resources to technological innovation (Zhang 2022). Enforcement of data security regulations has also been tightened in the wake of the US-China trade war.

Third, many digital platforms have close relations with provincial and local governments, which often are more concerned to defend their local champions than to enforce competition law against them. The recent moves by SAMR therefore also serve to generate leverage for the central government vis-à-vis local authorities.

Finally, some state-owned enterprises (SOEs) are threatened by competition from digital platforms. For example, the spread of artificial intelligence is heightening the contest between digital platforms and other major state players in the financial sector, which is dominated by state-owned banks. As a result, the interests of state-owned banks are at stake as the Ant group and other

private companies increasingly dominate lending to consumers and small businesses. By fall 2020, Ant was providing about 10 percent of all consumer credit and had become the largest online provider of microfinance services in China (McMorrow and Yang 2021). Its market capitalization had become larger than the largest state-owned banks (Tudor-Ackoyd and Bray 2020).

Bureaucratic Competition and Antimonopoly Enforcement against Platforms: 2008–2018

In China, competition among the antimonopoly law enforcement authorities shapes both the development and implementation of competition law. Until the unification of competition authorities into the SAMR in 2018, each competition law regulatory body had its own set of missions and policy goals, resulting in conflict and competition among them (Zhang 2014). For example, NDRC was responsible for coordinating industrial policy. The delineation of jurisdictional authority among these bodies was ambiguous (Zhang 2021). These bodies have continued to assert their rights to regulate particular sectors even after SAMR was created.

The tension between industrial policy and competition policy helps explain the changing pattern of competition law enforcement. Whereas the purpose of the AML is to defend the principle of fair market competition, the government also still regards competition law as one means to use industrial policies to promote particular industries with targeted subsidies and tax breaks. The AML itself was the product of compromises over the degree to which it should serve to foster competition as opposed to promoting national industrial policy. Although centralizing authority over the enforcement of competition law has been one means for curbing local protectionism, the central government also has carved out exemptions from the law for SOEs and other national champions (Koblitz 2015).

The central–local political competition also plays a major role in competition law enforcement in China. Local protectionism has long been a major concern for the central government. In many cases, it is the local governments that create entry barriers that segment markets in order to protect local businesses. Local protectionism is a major obstacle for an integrated national market in China (Young 2000). The enactment of stricter antimonopoly rules enabled the central government to tackle local protectionism and departmental interests. In June 2016, the Chinese government initiated an ex ante administrative procedure (i.e. Fair Competition Review, see appendix Table A2) to provide a complementary mechanism for the AML. All government departments have to confirm ex ante that they have complied with the fair competition requirements defined by AML for proposed regulations and policies related to market entry, domestic trade, industrial development, procurement, project bidding, and so on (http://www.xinhuanet.com/legal/2018-01/05/c_129783744.htm).

Local regulators bear legal responsibility for competition law enforcement. In many cases, the local level regulators can start investigation efforts after being authorized by the central level regulators (https://www.thepaper.cn/newsDetail_forward_1863525). However, the local regulators report to the local government and are subject to the policy targets of local leaders such as local economic growth (Zhang 2014).

Before 2019, both the central government and lower-level governments gave high priority to promoting internet-related industries. Because the government regarded internet companies to be productivity-enhancing, promoting their development has been a major goal of industrial policy (Naughton 2021).

This policy is one reason for the lack of enforcement against digital platforms between 2008 and 2019 (Zhang 2021). In 2015, the State Council announced an industrial policy favoring the development of the “Internet plus” under which the development of digital platforms was encouraged (http://www.gov.cn/zhengce/content/2015-07/04/content_10002.htm). Central and local governments were instructed to support and coordinate the expansion of digital platforms into financial services (inclusive finance), data sharing, manufacturing/logistics, and other domains. In 2017, the Ministry of Industry and Information Technology (MIIT) released a three-year action plan (2017–2019) for cloud computing. The plan encouraged major industrial firms to collaborate with digital platforms providing cloud computing services (http://epaper.cena.com.cn/content/1/2017-04/14/03/2017041403_pdf.pdf).

The New Government Agency and Top-Down Initiatives: 2018–Present

In 2018, the three government agencies with jurisdiction over competition enforcement were consolidated into a single entity: SAMR. Its mission was clearly defined around the enforcement of competition law. However, the capacity of SAMR is limited. The number of full-time employees working on antimonopoly in SAMR was reported to be about 50, much smaller than its counterparts in the United States and the European Union (Zhang 2022).

However, notwithstanding SAMR’s mandate, other regulators such as the NDRC, MIIT, and the Cyberspace Administration of China (CAC) bear responsibility for other policy objectives relating to the digital economy that can compete with the general mandate of the competition authority in regulating specific industries.

One reason for the change in the priority given to the enforcement of competition law in the digital economy is that since the outbreak of the US–China trade war in 2018, the Chinese government has been working hard to steer resources into “hard” and “core” technologies (e.g. semiconductor industry). In November 2019, Xi Jinping made a speech to encourage the capital market to support enterprises in the area of “hard” technology (<https://finance.sina.com.cn/stock/kechuangban/2019-11-04/doc-icezuev6940716.shtml>).

A recent government announcement suggested that one reason for strengthened regulation of digital platforms for online gaming is not only to block the use of addictive technologies that promote antisocial values, but also to keep the digital marketplace competitive [<http://politics.people.com.cn/n1/2021/0909/c1001-32221841.html>].

At a top party meeting in December 2020, it was declared that China would work to prevent “disorderly capital expansion” by intensifying “anti-monopoly supervision” (<https://www.chinadaily.com.cn/a/202012/25/WS5fe429a3a31024ad0ba9e164.html>). The labor economist Cai Fang, a member of the policy

committee for the People's Bank of China (PBOC), recently argued that regulation of the technology industry was required to curb tendencies toward monopoly that in turn would deepen economic inequality in the country (<https://www.bloomberg.com/news/articles/2021-09-13/china-should-curb-tech-monopolies-to-ensure-growth-pboc-advisor>). It is also the case that data security and data protection are now among major concerns for the government.

The competition law regime is being reformed and enforcement strengthened in order to meet the challenge of digital platforms. In January 2020, a draft for the amendment of AML was released for comment and the corresponding amendment has been included on the agenda of the 2021 session of the National People's Congress (http://czt.hebei.gov.cn/szzt/xfxc/202107/t20210712_1438319.html). This amendment covers the features of digital platforms as network externalities, lock-in effects and data governance.¹⁰ In August 2021, SAMR released a draft regulation addressing unfair competition in the internet industry which would ban algorithm-based discrimination (<https://www.reuters.com/business/media-telecom/china-isues-draft-rules-banning-unfair-competition-internet-sector-2021-08-17/>), In the three years after the establishment of SAMR, from 2018 to July 2021, China antitrust fines reached a historic high of RMB 20 billion (or US \$3.08 billion); many of these cases concerned digital platforms (see cases below) (<https://finance.sina.com.cn/chanjing/gsnews/2021-07-07/doc-ikqcfnc5518951.shtml>).

Central–local tension continues to exist. Many local governments rely on the support of digital platforms. For example, Alibaba, headquartered in Zhejiang province, collaborated with the Zhejiang government in providing cloud services to local governments and, during the COVID-19 pandemic, servicing the QR health code (<http://it.people.com.cn/n1/2020/1124/c1009-31942977.html>; http://www.xinhuanet.com/enterprise/2020-02/19/c_1125596647.htm). For this reason, more stringent antimonopoly enforcement toward digital platforms can increase the leverage of the central government over both platforms and local governments. Antitrust authority's enforcement of the Anti-Monopoly Law against digital platforms gives the central government an additional instrument to influence local regulators/local governments.

Data Security and Digital Platforms

Digital platform companies collect a tremendous amount of user data including personal background information generated by the large volume of transactions. These companies use transaction-generated personal data to perform big-data analytics, which contributes to operational efficiency enhancement, cost reduction, and risk control. The platforms' control of large volumes of personal data not only increases their market power but also raises concerns over privacy and data security on the other.

While China hosts many leading digital platforms and unicorns, the development of personal data protection is still in its infancy. China's first Civil Code, enacted on January 1, 2021, dedicates an entire chapter to privacy and personal data protection. It elucidates the principles of how government agencies or enterprises should manage and share personal

information, including personal e-mail, travel history, and biometrics information. In the meantime, the Personal Information Protection Law was just endorsed by the Standing Committee of the National People's Congress in August 2021 and will take effect from November 2021. Another law regulating data-related activities within China, the Data Security Law, just came into effect from September 2021.

Data regulation in China, in contrast to other countries, is “comprehensive but vague” (Liu 2021). Ambiguity in new legislation and regulation imposes regulatory uncertainty on platform companies. Further, from the case of Didi Chuxing (discussed in detail in the case study below), it is cybersecurity rather than protection of privacy that matters when the government regulates data in the digital platforms (Liu 2021). The Cybersecurity Law, released in 2016, is enforced by the CAC. Based on the law, personal data and “important data” must be stored locally. For digital platforms, the transfer of personal data and “important data” across the border is subject to a cybersecurity review by the central and local CAC.

With respect to privacy, the Personal Information Protection Law (PIPL), which is also enforced by CAC, imposes constraints over data controllers, mainly digital platforms but also government agencies, in the collection, storage, and sharing of personal data. For example, based on PIPL, users' consent is necessary to process personal data. Further, the consent must be informed and specific.

Major Antitrust Cases Involving Digital Platforms in China

Case 1: Ant Group in the Payment Market

Digital platforms in finance can offer data analytics by taking advantage of data on consumer behavior to evaluate credit risk ex ante.¹¹ This lets the Ant Group offer more inclusive financial services to people and businesses that had difficulty accessing traditional banking services. In this way, digital platforms directly compete with regular banks—nearly all of which are state-owned—in the financial market.

A draft of the regulation for financial holding companies was released in September 2020 (http://www.gov.cn/zhengce/zhengceku/2020-09/13/content_5543147.htm). PBOC is the enforcer of the regulation and the regulation is expected to level the playing field between the major fintech players like Ant and the big banks, which have been calling for the government to regulate the growth of fintech giants for years. On November 3, 2020, China's financial regulators, including the People's Bank of China (PBOC) and China Banking and Insurance Regulatory Commission, introduced new, stricter rules on online lending, among which is a provision requiring online and microlenders like Ant to provide at least 30 percent of the funding (i.e. total loan) when it offers loans with other banks (http://www.xinhuanet.com/finance/2020-11/03/c_1126690795.htm). This is more than the 2 percent currently, while loans to individuals are to be capped at RMB 300,000 (US \$45,470) or a maximum of one-third of the borrower's average income in the last three years. With the new rules announced, the Shanghai stock exchange suspended Ant's initial public offering (IPO) on the same day, prompting the company to also pull out of its listing in Hong Kong.

In December 2020, Ant Group was told by PBOC to enhance the transparency of transactions, protect personal data, and end its illegal financial activities involving lending, insurance, and wealth management. In early 2021, it was reported that Ant is going to be restructured into a financial holding company, which then will be subject to more restrictive financial regulations (e.g. a 30 percent capital requirement for loans) (http://www.xinhuanet.com/finance/2020-11/03/c_1126690795.htm). In April 2021, PBOC again ruled that Ant should be restricted to serving as a financial holding company (*Wall Street Journal* April 13, 2021).

In a meeting with Ant in April 2021, PBOC and other financial regulators¹² also required Ant to break the “inappropriate link” between its micro-lending and payment services (i.e. Alipay). Ant agreed to decouple the payment business from all microlending services, and to create a separate consumer finance company. PBOC also restated the importance of compliance with data regulation and required companies conducting credit investigations to have a license to operate.¹³ Ant agreed to comply with all the requests (<https://wap.peopleapp.com/article/6175798/6079060>).

Case 2: Antitrust Investigation Against Alibaba: E-Commerce

In December 2020, SAMR conducted an on-site investigation at Alibaba. SAMR planned to investigate the practice of “choosing one out of two” or “exclusive dealing” in competition-law terms.¹⁴ Alibaba and its affiliated platforms have long been accused of forcing merchants to list products and services on their platforms only, as a tactic to reduce choices available on competing platforms. In 2018, JD.com filed a lawsuit that accused Alibaba of abusing its dominance of the online marketplace and forcing merchants into exclusionary choices between the two companies.

In the worst-case scenario, SAMR may impose a fine of up to 10 percent of an offender’s overall revenue, apart from confiscating illicit gains (AML Article 17). In April 2021, Alibaba was fined by SAMR for a record high RMB 18.2 billion for abuses of market dominance (i.e. 4 percent of Alibaba’s turnover in China in 2019) (<https://www.bloomberg.com/news/articles/2021-04-10/china-fines-alibaba-group-2-8-billion-in-monopoly-probe>). In the penalty decision for the case of Alibaba, SAMR declared that the online e-commerce platform is considered as a separate market from the retail market. Alibaba is also considered by SAMR to have a market dominance position, as the platform has occupied more than 50 percent of the e-commerce market share in China in recent years (<http://www.samr.gov.cn/xw/zj/202104/P020210410285606356273.docx>).

Case 3: Didi Chuxing and the Importance of Data Security

China’s major ride-hailing platform Didi Chuxing raised US \$4.4 billion via an IPO on the New York Stock Exchange on June 30, 2021. As the leading company in the ride-hailing business, Didi Chuxing currently serves 377 million annual active users and 13 million drivers and has over 25 million daily transactions in China (<https://www.scmp.com/tech/big-tech/article/3140573/chinas-big-tech-face-wake-call-countrys-web-data-protection-laws>).

However, investors have been facing huge uncertainty after a series of recent regulatory probes toward Didi Chuxing. On July 2, 2021, the CAC announced that a cybersecurity review had been launched against Didi Chuxing, and new users’ registration was suspended. On July 4, CAC announced that Didi Chuxing’s apps were to be removed from app stores as the company was “illegally collecting and using *personal* data.” Later in July 2021, seven government agencies, including CAC, the Ministry of Public Security, the Ministry of State Security, the Ministry of Natural Resources, the Ministry of Transport, and the State Taxation Administration, together with SMAR, started an on-site cybersecurity review at Didi Chuxing.

At the same time as Didi Chuxing was being investigated on-site, in July 2021, a draft of an amendment of the cybersecurity review was released. In the draft of the amendment, platform companies that process personal data of more than one million users are required to undergo a cybersecurity review before seeking an IPO outside China. In particular, the draft explicitly stated the risk associated with foreign IPO for which “critical information infrastructure, “*important* data,” or “a large amount of personal information” could be “influenced, controlled, and abused” by foreign governments.

Digital Platforms in China and Russia: Challenges for Competition Policy

The digital sectors in Russia and China exhibit similarities and differences that are important for understanding the differences in the objectives and potential effects of competition and/or regulatory enforcement.

Three similarities stand out. First, in both countries, penetration of internet and mobile markets by platform companies now equals or exceeds (especially in China) that of developed countries. Second is the tension between the CA and the sectoral regulators in Russia as well as the CA and ministerial-level and local regulators in China. The CA is institutionally committed to enforcing broad principles of antimonopoly law, while the sectoral and other regulators seek to protect their jurisdictions and advance the economic interests of the industries they oversee.

Third, shifts in the international environment have shaped government antimonopoly policy, in China’s case as a result of growing technology competition and decoupling, in Russia’s as a result of Western trade and investment sanctions.

In other respects, the countries differ. China’s digital economy has a relatively larger role than Russia’s. Recent estimates put the share of the digital economy in GDP in China at three times higher than in Russia (Aptekman et al. 2017). Another important indicator is the market capitalization of digital companies. In comparison to the \$559 billion capitalization of Tencent, \$397 billion for Alibaba (it has declined significantly since October 2020), and about \$55 billion for Baidu, Russia’s Yandex (at about \$20 billion) is much smaller (all figures for September 2021) (<https://companiesmarketcap.com/>). The relative size of Chinese digital companies is also greater: Tencent and Alibaba rank first and second in China respectively, while Yandex is eighth in Russia. Moreover, the companies’ business structures differ. Tencent, Alibaba, and even Baidu have more diversified sector coverage and foreign

market penetration. They engage in anti-competitive practices to compete with each other (e.g. the practice of “choosing one out of two” in the Alibaba case discussed above). In fact, Wu and Gereffi (2018) found no substantial difference between the structure and governance of ecosystems between Chinese Alibaba and US Amazon. Russia’s Yandex is substantially less diversified, and its area of penetration is limited to Russian-speaking neighboring countries. In Russia, deep penetration of digital finance (Wang 2018) and explicit restructuring and reallocation of domestic production (Zhang 2020), such as is occurring in China, remains far off.

More importantly for the analysis of competition law enforcement, the evolution of the digital economies also differs. China’s “Great Firewall” since 2003 provides substantial protection to Chinese digital companies and their ecosystems from foreign competition. China’s Baidu dominates the domestic search market with about two-thirds market share during the last decades. Entrants Sougou and Haosou are also Chinese, with Google holding only a negligible share (data from <https://gs.statcounter.com/>). In Russia, Yandex competes head-to-head with Google. On the other hand, Yandex is not strong enough to displace Russian e-commerce marketplaces (for instance, Ozon.ru) or social networks (such as Odnoklassniki.ru and Vkontakte.ru) from their markets. In addition, medium and small apps developers in Russia are not integrated into the Yandex ecosystem, retaining autonomy and considering themselves to be independent and powerful market participants.

These differences have two implications for competition policy and enforcement. First, Chinese digital companies and their ecosystems exercise relatively greater market power, being able to deeper expand in adjacent sectors (e.g. the case of Ant group in the payment and micro-lending market), than do Russian companies. Their potential anticompetitive conduct may therefore have much greater adverse effects. For that reason, their disruptive impact on adjacent sectors is greater. Second, government intervention in competition law in Russia necessarily affects the distribution of market share between foreign and domestic participants. Any restriction imposed on Google or Apple favors domestic rivals, and vice versa. In contrast, in China, the government competition enforcement as well as any other state intervention in the governance of digital markets has no immediate effects on the market structure between domestic companies and foreign companies.

Likewise these differences have implications for the role of digital companies in domestic politics. In China, digital platforms are relatively more powerful than in Russia, wielding higher potential influence on regulation and law. Precisely because of their larger size and power, Chinese companies pose a potential challenge to government control over the economy and society (e.g. data security in the Didi Chuxing case) (McKnight, Kenney, and Breznitz 2021). In contrast, given that Russian Yandex is not powerful enough to have a substantial impact on the economic and political environment, it is hardly considered a potential threat by other interest groups. Therefore, market players are more readily able to act collectively in defense of their autonomy against the threat of strong antimonopoly enforcement by SAMR; in this they are supported by sectoral regulators and by the Ministry of Economic Development.

Discussion

The rapid emergence of digital platform companies in new markets such as e-commerce, advertising, search, social networks, and financial services threatens politically significant interests in both countries but in different ways. Their market power in commerce and finance can challenge the state’s monopoly over monetary policy, bypassing state regulation of the financial sector, and penetrating countries’ domestic markets. Their capacity to influence public opinion through social media is a particular threat. Russia’s and China’s responses differ, however, reflecting the difference in the distribution of political resources, the extent of the penetration of the economy by the digital platforms, and the fact that no single company in Russia possesses the dominant market power enjoyed by Alibaba or Tencent. In both cases, however, we observe a trade-off between the broad goals of competition policy—to enforce a competitive market place—and more specifically political goals, including protecting favored industries, advancing technological innovation in the digital economy, and preventing private digital technology firms from threatening core state interests.

It bears reiterating that the political processes we have analyzed here can be distinguished from both governments’ efforts to control the companies’ role as platforms for social communication. These efforts began far before the most recent tensions, in China since the intensification of trade conflict and in Russia since the start of the Ukrainian war. The Russian authorities seek to reduce access to Western platform companies’ search and social media platforms and to increase the use of Russian ones, which are easier to control. Although Russia has still not imposed a “great firewall” to block access to Western digital platforms entirely, it has taken a number of steps to ensure that the population relies on Russian-made applications and services. In China, far-reaching limits on politically sensitive content on search and social media applications are not new (cf King, Pan, and Roberts 2013), but the recent demands for greater access to the data on users that the platform companies have amassed will expand the regime’s ability to monitor and control social behavior.

For Russia and China, changes in the external political environment also prompted the formation of new coalitions. In Russia, the sanctions regime spurred policy responses that were unlikely if not impossible previously, and in China, the outbreak of a trade war with the United States led the government to embrace the “dual circulation” model, which emphasizes domestic innovation driven by competition. In both countries, these stimuli reshaped political coalitions. In Russia, they favored policymakers at the first tier (the government and the president) to lend their support to the coalition of sectoral regulatory bodies and industry against the FAS’s claims to broader pro-competition enforcement power. In China, where a few giant platforms exercise substantial market power in several adjacent industries, the top political decision-makers shifted away from promoting internet platform companies as leaders in technological innovation toward renewed antimonopoly enforcement. This shift was a way to curb both the market power of the dominant platforms and the autonomy of local governments championing their home-based companies. This broader policy shift resulted in a marked turn in the government’s view of China’s own market-dominating digital platform companies, such as Alibaba, Tencent, and others, whose power threatened core government interests and the interests of powerful SOEs, particularly in the banking industry.

The emergence of market-dominating digital platform companies has triggered realignments of the salient political forces in Russia and China by threatening major political interests, reinforcing the political resources of some forces, and creating new alliances of affected interests. As the technological and external environments change in the future, competition policy is very likely to evolve as well.

Notes

1. In the United States, early efforts to enforce rules of fair and free competition in the economy focused on the market power of giant financial and industrial trusts, such as J. P. Morgan's steel, railroad, and shipping trusts, and Rockefeller's Standard Oil Trust. As Senator John Sherman, author of the Sherman Anti-Trust Law, announced on the floor of the Senate in 1890, the law's goal was to "prevent and control combinations made with a view to prevent competition, or for the restraint of trade, or to increase the profits of the producer at the cost of the consumer." For historical reasons, therefore, American law targeting monopolistic conduct, including anticompetitive agreements and mergers restricting competition as well as the abuse of dominance, evolved around the concept of "antitrust." As other countries followed the American lead, the term antitrust was sometimes used interchangeably with antimonopoly or competition law.
2. For example, in March 2022, Meta, which owns Facebook and Instagram, was declared an extremist organization.
3. For this reason, we are skeptical of the premise that in the era of the digital communications revolution, the strategies of autocracy have shifted from negative to positive control. Both were always part of the arsenal of communications control in communist regimes. Cf Guriev and Treisman 2020.
4. For example, in September 2021, Russia's censorship agency, Roskomnadzor, warned Google and Apple of fines if they refused to remove from their app stores an app created by supporters of Aleksei Navalny encouraging voters to cast ballots against United Russia in the September 17, 2021, Duma elections. Roskomnadzor has also demanded that YouTube remove Navalny's channel (Soldatov and Borogan 2021; Timberg, Dixon, and Albergotti 2021).
5. The list of changes and amendments under the 5th antitrust package is longer, and includes changing criteria for merger review and the introduction of the specific institution of trustee in merger review, among other things.
6. The safe harbor refers to exemption from competition law.
7. This type of critical assessment is not accidental. In fact, Russian competition enforcement is often concentrated on relatively small market participants. There are many explanations of this feature, including performance assessment and motivation of FAS.
8. The predecessor of the "weak anti-Apple" initiative is the rule on the preferential treatment of domestic software under public procurement (in force since January 2016).
9. Law 425–2019 introduces the following amendments to the law "On Consumer Protection": "Under supply of technically complex goods with pre-installed applications the consumer should have the option to use pre-installed applications developed in Russia or in Eurasian economic union. The list of technically complex goods, list of applications to be installed . . . is to be specified by RF Government." The requirements for pre-installation are to come into force gradually. First, the list of apps for compulsory pre-installation took force on April 1, 2021. The list includes apps from relatively large digital companies in Russia—Yandex and Mail.ru—as well as public services and anti-virus apps.
10. See Article 21 in the draft of the amendment: http://www.samrgov.cn/hd/zjdc/202001/t20200102_310120.html, accessed on September 3, 2021.
11. For example, a recent report by Xinhua News Agency indicates that Ant Group uses over 100 thousand indices, more than 100

prediction models, and over 3,000 risk management strategies to assess collateral-free loan applications from small and mid-size enterprises (http://www.xinhuanet.com/2020-04/23/c_1125892937.htm, accessed on April 28, 2021).

12. Among these were the Banking and Insurance Regulatory Commission, which regulates consumer financial services.
13. PBOC here refers to the Regulation on the Administration of Credit Investigation Industry, enacted in 2013.
14. "Choosing one of two" refers to the practice by Alibaba of forcing merchants to distribute their goods exclusively on a single platform.

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Appendix

Table A1. Major Competition Investigations and Merger Assessments Involving Digital Platforms in Russia

Year(s)	Target	Type of investigation	Complainant	Decisions	Conduct/competition concerns
2014–2019	Visa, Mastercard	Abuse of dominance	ACORT (retailers association)	No statement of objection	Excessive transactions fees
2015–2016	Google	Abuse of dominance	Yandex (RUS)	Infringement decision, then commitment decision with remedy	Effectively exclusionary clauses with OEMs
2017	Uber-Yandex JV	Merger clearance	No	Conditional approval with behavioral remedies	Horizontal competition concerns
2017	Microsoft	Abuse of dominance	Kaspersky Lab (RUS)	Warning with remedies, fulfilled	Discriminatory treatment of apps developers by untimely access to new Windows versions
2019–2021	Yandex and Vezyot	Merger clearance	No	Prohibition (2019), conditional approval of modified merger (2021)	Horizontal competition concerns
2020	Apple	Abuse of dominance	Kaspersky Lab (RUS)	Infringement decision (2020), penalties, under judicial review	Disadvantaging rival's app by reducing functionality upon re-installation
2020	Booking.com	Abuse of dominance	OPORA Rosnyi business association	Infringement decision, remedy, judicial review	Imposition of unfavorable conditions (price-parity clause)
2021	Yandex (RUS)	Abuse of dominance	Domestic online aggregators	Remedy (not fulfilled), statement of objection	Discrimination as preferential treatment of own services (using widgets)

Source: Compiled by the authors

Table A2. Relevant Competition Laws Adopted in China

Competition law	Year	Main emphases	Institution enacting the law
A regulation about promoting socialism competition	1980	Addressing regional and ministerial blockade	State Council
Anti-Unfair Competition Law	1993	Prohibiting administrative monopoly, below cost sales, tying and bid rigging	National People's Congress
Price law	1997	Prohibiting collusion for price fixing	National People's Congress
Anti-Monopoly Law	2008	collusive agreements, abuse of market dominant; merger control	National People's Congress
Opinions of the State Council on Establishing a Fair Competition Review System in Building a Market System	2016	ex ante administrative procedure for government departments	State Council
Amendment of Anti-Unfair Competition Law	2017	Bribery, internet-related unfair competition	National People's Congress
Amendment of Anti-Unfair Competition Law	2019	Intellectual property	National People's Congress
Draft for amendment of Anti-Monopoly Law	2020	Regulating digital platforms	In progress

Source: Compiled by the authors.