

CHAPTER 11

第十一章

COMPETITION POLICY

竞争政策

ARTICLE 11.1

第11.1条

Principles

原则

The Parties recognise the importance of fair and free competition in their trade and investment relations. The Parties acknowledge that anticompetitive practices have the potential to distort the proper functioning of markets and undermine the benefits of liberalisation of trade and investment.

缔约方承认公和自由竞争在其贸易和投资关系中的重要性。缔约方承认反竞争行为有可能扭曲市场的正常运作并损害贸易和投资自由化的利益。

ARTICLE 11.2

第11.2条

Anticompetitive practices

反竞争行为

Each Party shall, in accordance with its laws and regulations, take measures which it considers appropriate against anticompetitive practices, in order to achieve the objectives of this Agreement.

每一方应根据其法律和监管框架, 采取其认为适当的措施以反对反竞争行为, 以实现本协议定的目标。

ARTICLE 11.3

第11.3条

Legislative and regulatory framework

法律和监管框架

1. Each Party shall maintain its competition law that applies to all enterprises in all sectors of the economy and which addresses, in an effective manner, the following anticompetitive practices:

1. 每一方应维持其适用于所有经济部门所有企业的竞争法, 该竞争法以有效的方式处理以下反竞争行为:

(a) for the United Kingdom:

(a) 对于英国:

- (i) agreements between enterprises, decisions by associations of enterprises and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;

- (i) 企业间协议、企业协会的决定以及旨在防止、限制或扭曲竞争的协同行为;

- (ii) abuse by one or more enterprises of a dominant position; and
 - (iii) mergers between enterprises which may substantially lessen competition; and
- (b) for Japan:
- (i) private monopolisation;
 - (ii) unreasonable restraint of trade;
 - (iii) unfair trade practices; and
 - (iv) mergers or acquisitions which would substantially restrain competition in a particular field of trade.
2. Each Party shall apply its competition law to all enterprises, private or public, engaged in economic activities. However, each Party may provide for certain exemptions from the application of its competition law provided that those exemptions are transparent and are based on public policy grounds or public interest grounds.
3. For the purposes of this Chapter, "economic activities" means those activities pertaining to the offering of goods and services in a market.

ARTICLE 11.4

Operational independence

Each Party shall maintain an operationally independent authority which is responsible and competent for the effective enforcement of its competition law.

- (ii) 一个或多个企业滥用支配地位； 和
 - (iii) 所有企业之间的合并， 可能导致实质性减少竞争； 以及
- (b) 对于日本：
- (i) 私人垄断； (ii) 不合理限制贸易； (iii) 不公平贸易行为； 以及 (iv) 在特定贸易领域内实质性限制竞争的合并或收购。
2. 每一方应根据其竞争法适用于所有企业， 无论是私人还是公共的， 从事经济活动的企业。但是， 每一方可以规定其竞争法的某些豁免， 前提是这些豁免是透明的， 并且基于公共政策理由或公共利益理由。
3. 就本章而言， “经济活动”是指提供商品和服务于市场的活动。

第11.4条

运营独立

每一方应维持一个运营上独立的机构， 该机构对其竞争法负责且具备有效执行的能力。

ARTICLE 11.5	第11.5条
Non-discrimination	非歧视
When applying its competition law, each Party shall respect the principle of non-discrimination for all enterprises, irrespective of the nationality and type of ownership of the enterprises.	在适用其竞争法时，每一方应尊重对所有企业适用的非歧视原则，不论企业的国籍和所有权类型如何。
ARTICLE 11.6	第11.6条
Procedural fairness	程序公平
When applying its competition law, each Party shall respect the principle of procedural fairness for all enterprises, irrespective of the nationality and type of ownership of the enterprises.	在适用其竞争法时，每一缔约方应尊重对所有企业（不论其国籍和所有制类型）的程序公平原则。
ARTICLE 11.7	第11.7条
Consumer protection	消费者保护
1. Each Party recognises the importance of consumer protection policy and enforcement to creating efficient and competitive markets and enhancing consumer welfare. 2. For the purposes of this Article, fraudulent and deceptive commercial activities refers to those fraudulent and deceptive commercial practices that cause actual harm to consumers, or that pose an imminent threat of such harm if not prevented, for example: (a) a practice of making misrepresentations of material fact, including implied factual misrepresentations, that causes significant detriment to the economic interests of misled consumers; (b) a practice of failing to deliver products or provide services to consumers after the consumers are charged; or	1. 各方承认消费者保护政策及其执行对于创造高效和竞争性市场以及提升消费者福利的重要性。 2. 根据本条款的目的，欺诈和误导性商业活动是指那些对消费者造成实际损害的欺诈和误导性商业行为，或者如果不加以阻止，则构成对这种损害的迫在眉睫的威胁，例如： (a) 一种作出实质性事实虚假陈述的实践，包括暗示性事实虚假陈述，该行为对被误导的消费者的经济利益造成重大损害； (b) 一种在消费者付费后未能交付产品或提供服务的做法；或

(c) a practice of charging or debiting consumers' financial, telephone or other accounts without authorisation.

3. Each Party shall adopt or maintain consumer protection laws or other laws or regulations that proscribe fraudulent and deceptive commercial activities.¹

4. Each Party recognises that fraudulent and deceptive commercial activities increasingly transcend national borders and that cooperation between the Parties is desirable to effectively address these activities.

5. Accordingly, each Party shall promote, as appropriate, cooperation on matters of mutual interest related to fraudulent and deceptive commercial activities, including in the enforcement of their consumer protection laws.

6. Each Party shall endeavour to cooperate on the matters set out in this Article through the relevant national public bodies or officials responsible for consumer protection policy, laws or enforcement, as determined by each Party and compatible with their respective laws, regulations and important interests and within their reasonably available resources.

ARTICLE 11.8

Transparency

Each Party shall apply its competition law in a transparent manner. Each Party shall promote transparency in its competition policy.

¹ For greater certainty, the laws or regulations a Party adopts or maintains to proscribe these activities can be civil or criminal in nature.

(c) 一种未经授权向消费者金融、电话或其他账户收费或扣款的做法。

3. 每个缔约方应当制定或维持消费者保护法或其他禁止欺诈和误导性商业活动的法律或法规。¹

4. 每个缔约方承认欺诈和误导性商业活动日益跨越国家边界，并且缔约方之间的合作是有效应对这些活动的必要条件。

5. 因此，每个缔约方应当适当促进就欺诈和误导性商业活动相关事项的合作，包括在执行其消费者保护法方面。

6. 每个缔约方应当通过各自负责消费者保护政策、法律或执法的相关国家公共机构或官员，努力就本文所述事项进行合作，这些机构或官员由每个缔约方确定，并与各方的法律、法规和重要利益相一致，并在其合理可用的资源范围内。

第11.8条

透明度

每一缔约方应以透明的方式适用其竞争法。每一缔约方应促进其竞争政策的透明度。

¹ 为明确起见，一方为禁止这些活动而采纳或维持的法律或法规可以是民事或刑事性质的。

ARTICLE 11.9

Enforcement cooperation

- 1. To achieve the objectives of this Agreement and to contribute to the effective enforcement of the competition law of each Party, the Parties acknowledge that it is in their common interest to promote cooperation and coordination between the competition authorities with regard to developments in competition policy and enforcement activities.
- 2. To facilitate the cooperation and coordination referred to in paragraph 1, the competition authorities of the Parties may exchange or otherwise communicate information in accordance with the respective laws and regulations of the Parties.
- 3. Detailed cooperation arrangements to implement this Article may be made between the competition authorities of the Parties.

ARTICLE 11.10

Dispute settlement

The provisions of this Chapter shall not be subject to dispute settlement under Chapter 22.

第11.9条

执法合作

- 1. 为实现本协定的目标并为有效执行每一缔约方的竞争法作出贡献， 缔约方承认促进竞争主管机关在竞争政策发展和执法活动方面的合作与协调符合其共同利益。
- 2. 为促进第1段所述的合作与协调， 各缔约方竞争主管机关可以根据各自的法律和法规交换或以其他方式交流信息。 。
- 3. 为实施本条文的详细合作安排可由各缔约方竞争主管机关之间作出。

第11.10条

争议解决

The pr 本章的规定不应根据第22章的争议解决程序进行。