

Abstract

In the late 1970s, the People Republic of China (PRC) began its Reformation and Openness Policy, and put the transformation from Traditional Planning Economic System to Market Economic System into practice. The PRC showed its nation volition of practicing Market Economic System by the constitutional amendments in 1993. After that, the Law System of Market Economy has been established and completed progressively. The development of Competition Law could be the proof of the law transformation and the epitome of the system's establishing process.

As the Market Economic System has been integrated unceasingly, the essentiality of the Relating Law System's completion has been more and more significant. The Legislation of Anti-monopoly Law of the PRC just results from this particular background. Furthermore, the PRC gained the access to the World Trade Organization (WTO) in 2001, and the responsibility of accession to the WTO has pushed ahead with the legislation, which is the most important landmark of the anti-monopoly process. The national system's transformation and the duty of the international community are now smoothing all legislative barriers away in order to hasten a proper Anti-monopoly Law both at home and abroad.

The core problem of the Legislation of Anti-monopoly Law of the PRC is Administrative Monopoly. Administrative Monopoly derives from exercising public authority in economic sphere by administrative organ, and it performs at different extent in distinct national system. Administrative Monopoly in the PRC, whose system transformation is incomplete, appears and develops rapidly everywhere by: (1) people's weak consciousness of competition; (2) administrative organ's strong selfishness; and (3) imperfect anti-monopoly regulations. Administrative Monopoly is a looking compulsoriness but the essence of it is a kind of illegal behavior. In addition to competitive function and economic freedom, Administrative Monopoly has badly destroyed the economic efficiency, which is the main goal of the PRC's developing process, and has made a great deal of pecuniary loss. Accordingly, the PRC has to take action including the Legislation of Anti-monopoly Law and adopt other political and economical measures to restrain this kind of abuse.

The Anti-monopoly Law of the PRC probably will be presented to the public in spring 2006. According to the Draft of Anti-monopoly Law of the PRC we can get, the law will subsume the specialized chapter of regulations for Administrative Monopoly. Also, the law will include prohibition of Cartel and its escape clauses, prohibition of Abusive Conduct of Market Dominating Enterprises, and Merger Control among its constituents by referring to other countries' regulations. The constitution of this draft is roughly integrated, but there are still some faulty details need to be thought thoroughly and revised if necessary by the legislators during recent period.