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Research on the burden of proof in litigation of abuse of
dominant market position

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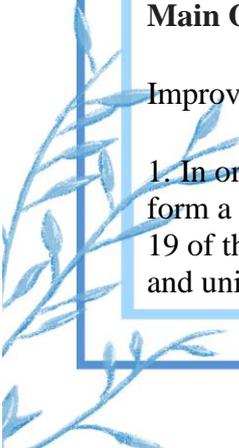
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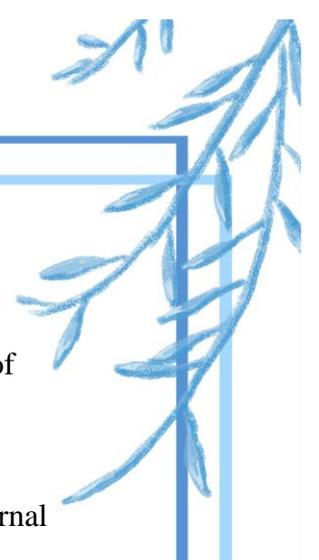
Introduction: From the empirical analysis, we can learn that there are many problems in the judicial practice of litigation of abuse of dominant market position, such as the difficulties of plaintiffs in proving their case, the heavy burden of proof and the extremely low success rate. However, the main reasons for these difficulties are the inadequacy of the existing provisions on reducing the burden of proof and the lack of the plaintiff's ability to collect evidence. Therefore, it is necessary to improve the existing provisions on reducing the burden of proof in order to give full play to the value of private antitrust litigation and to reduce the burden of proof on the plaintiff.

Main Objectives:

Improvements to the existing rules on reducing the burden of proof

1. In order for this provision to be truly effective, it is necessary for the courts to form a unified analytical path for the application of the provision, that is, Article 19 of the Anti-Monopoly Law should delete the word "may" from the provision and unify the analytical framework of the courts.





Main Objectives:

2. Article 9 of the Regulation should be improved. It can be concluded from empirical cases that there are also a number of obstacles to the applicability of this provision.

3. Article 10 of the Regulation should be amended. if the plaintiff presents prima facie evidence of the defendant's external publication of information that proves its dominant market position, and that evidence matches the relevant market in question, the court should find the evidence valid and shift the burden of proof to the defendant.

Methods

1. Literature reading method
 2. Case study method
 3. Jurisprudential analysis method
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