

MOFCOM Announcement [2011] No. 90 regarding the Anti-Monopoly Review Decision for Conditional Approval of the Anti-Monopoly Review in Respect of Acquisition by Seagate of Samsung's Hard Disk Drive Business

商务部公告 2011 年第 90 号 关于附条件批准希捷科技公司收购三星电子有限公司硬盘驱动器业务反垄断审查决定的公告

2011-12-12

<p>中华人民共和国商务部（以下简称商务部）收到希捷科技公司（以下简称希捷或申报方）收购三星电子有限公司（以下简称三星，与希捷合称交易双方）硬盘驱动器（以下简称硬盘）业务的经营者集中反垄断申报。经审查，商务部决定附加限制性条件批准此项经营者集中。根据《中华人民共和国反垄断法》（以下简称《反垄断法》）第三十条，现公告如下：</p>	<p>The Ministry of Commerce of the People's Republic of China ("MOFCOM") received the request filed by Seagate Technology LLC ("Seagate") for the anti-monopoly review of a concentration between undertakings consisting in its acquisition of the hard disk drive ("HD") business of Samsung Electronics Co., Ltd. ("Samsung", together with Seagate, "Parties"). Upon examination, MOFCOM decides to approve this concentration of undertakings subject to restrictive conditions. According to Article 30 of the <i>Law of the People's Republic of China on Anti-Monopoly</i> ("Anti-Monopoly Law"), we make this announcement as follows:</p>
<p>一、立案和审查程序</p> <p>2011年5月19日，商务部收到希捷收购三星硬盘业务经营者集中申报。经审核，商务部认为该申报文件、材料不完备，要求申报方予以补交。6月13日，商务部确认经补交的申报文件、资料符合《反垄断法》第二十三条的要求，对该项经营者集中申报予以立案并开始初步审查。</p> <p>经初步审查，商务部认为此项集中对硬盘市场可能具有排除、限制竞争效果。7月13日，商务部决定对此项集中实施进一步审查。10月11日，商务部决定延长进一步审查期限，截止日期为12月12日。</p> <p>审查过程中，商务部对申报方提交的文件、资料的真实性、完整性和准确性进行了审核，书面征求了相关政府部门、行业协会和下游企业等方面的意见，向生产商、客户、相关专家了解了相关产品、相关市场界定、市场结构、交易模式、市场发展前景等方面的信息，委托专家对此项集中的竞争影响进行了分析评估。</p>	<p>1 Filing and Examination Procedures</p> <p>On May 19, 2011, MOFCOM received the filing by Seagate for the anti-monopoly review of a concentration of undertakings resulting from its intended acquisition of the HD business of Samsung. Upon review, MOFCOM held that the documents and materials submitted in the filing were incomplete, and thus required Seagate to submit further necessary documents and materials. On June 13, MOFCOM acknowledged that the documents and materials submitted as supplemented met the requirements set out in Article 23 of the Anti-Monopoly Law, and decided to accept the filing of a concentration of undertakings, with preliminary examination being carried on accordingly.</p> <p>Upon preliminary examination, MOFCOM held that the concentration might have an effect of exclusion and restriction on competition on the HD market. On July 13, MOFCOM decided to carry out a further examination of the concentration. On October 11, MOFCOM decided to extend the period of the further examination, with the deadline to be the date December 12.</p> <p>During the examination, MOFCOM reviewed the trueness, completeness and accuracy of the documents and materials submitted by Seagate, sought opinions and comments in writing from</p>

	relevant government departments, industry association, downstream enterprises, etc., collected information from manufacturers, customers, relevant experts in respect of the definition of relevant products and relevant markets, market structures, trading mode, market development prospect, etc., and engaged experts to carry out the analysis and appraisal on the effect of the concentration on competition.
<p>二、竞争分析</p> <p>根据《反垄断法》及其相关规定，商务部对此项集中涉及的硬盘行业市场状况、采购模式、产能利用、产品创新、买方议价能力、市场进入和对消费者影响等内容进行了审查，分析了在上述相关商品市场中此前发生的交易、特定期间市场价格变化等情况，综合评估了此项经营者集中对市场竞争等方面的影响。</p> <p>（一） 集中交易和相关市场。</p> <p>根据希捷和三星签署的《资产购买协议》，希捷将收购三星硬盘业务相关资产。希捷是一家从事硬盘等数字存储产品生产和销售的企业。目标资产是三星专门用于硬盘研发、生产和销售的所有厂房、设备和其他资产。</p> <p>硬盘是以磁存储技术为基础的存储设备，通常作为计算机和其他消费电子产品中最重要的辅助存储介质使用。硬盘与固态硬盘、闪存等其他辅助存储设备在容量、价格、用途等方面差异明显，硬盘市场构成单独的相关商品市场。按终端应用不同，硬盘市场可以分为企业级应用、台式电脑应用、便携式电脑应用和消费电子产品应用等细分的相关商品市场。硬盘的采购和供应在全球市场范围内展开，本项集中的相关地域市场为全球市场。</p> <p>（二） 市场状况。</p> <p>经调查，商务部发现硬盘市场呈现以下特征：</p> <p>第一，市场集中度较高。近二十年来，硬盘市场集中度不断提高。目前，在硬盘市场上仅存希捷、西部数据、日立存储、东芝和三星5家生产商。2010年，上述5家生产商在全球市场的份额分别约为33%、29%、18%、10%和10%，在中国市场的份额与此类似。</p>	<p>2 Analysis on Competition</p> <p>In accordance with the Anti-Monopoly Law and other relevant provisions, MOFCOM carried out examinations on the HD sector market status, procurement mode, production capacity usage, products innovation, buyer's bargain ability, market entry, effect on consumers, etc. as related to the concentration, analysis on the prior trading on the markets of above relevant commodities, market price changes during specific periods, etc., and an overall appraisal on the effect of the concentration of undertakings on the market competition, etc.</p> <p>2.1 Transaction of the Concentration and Relevant Markets</p> <p>According to the Asset Purchase Agreement between Seagate and Samsung, Seagate will purchase the assets related to Samsung's HD business. Seagate is an enterprise engaged in the production and sale of digital storing products such as HD, etc. The target assets consist of total factory buildings, equipment and other assets of Samsung specifically dedicated to the development, production and sale of HD.</p> <p>HD is the storage device based on the magnetic memory technology, usually used as the most important accessory storage medium of computers and other consumer electronic products. HD is quite different from solid-state disks, flash memories and other accessory storage equipment in terms of capacity, price, usage, etc., and the HD market is a separate market of its own for relevant commodities. For different end-use purposes, the HD market may be divided further into different branch markets for commodities of enterprise applications, desk computer applications, portable lap-top computer applications, consumer electronic product applications, etc. The sales and supply of HD are being carried on the worldwide market, and the concentration hereunder has the global market as its relevant market.</p>

第二，硬盘产品同质化明显。各硬盘厂商的硬盘产品之间差异不大，下游用户能在较短时间内转换供应商，且成本很低。

第三，硬盘市场透明度较高。硬盘厂商和主要买家数量均较少，产品同质化明显，竞争者对相互之间的技术、成本、生产和销售状况等情况均比较了解。硬盘厂商能凭借相关事实和经验确定竞争对手的产品价格或价格区间。同时，硬盘厂商经常共用相同的分销商，通过分销渠道了解其他品牌硬盘产品信息较容易。

第四，大型电脑生产商是硬盘产品的主要下游客户。硬盘产品销售主要包括对大型电脑生产商的销售和经过分销商向下游用户的销售，其中大型电脑生产商是硬盘的主要客户，其与硬盘生产商之间的交易价格决定了硬盘的市场价格。

（三） 采购模式。

为获得并保持竞争价格，大型电脑生产商在硬盘采购中通常采用不公开竞标方式，按季度同多个硬盘生产商进行双边谈判。为保证供应的连续性和安全性，大型电脑生产商最终将总需求按照价格等因素在2至4家硬盘生产商之间按一定比例分配。在单次竞标中，最具竞争力的要约一般会获得较大订单份额，次之会获得较小订单份额，再次的可能拿不到订单。这种采购模式促使硬盘生产商为了获得订单和获得更大的订单份额而竞争。因此，维持大型电脑生产商目前的采购模式对保持硬盘市场的竞争非常重要。

（四） 产能利用。

调查发现，硬盘行业产能利用率较高。特别是2008年第四季度以来，随着市场需求的增加，所有硬盘生产商的产能利用率均持续上升。2010年第四季度全部5家硬盘生产商的平均产能利用率约90%，剩余产能有限。

（五） 产品创新。

调查发现，创新对硬盘行业影响重大。率先推出创新产品可以获得较高的市场份额和利润，在其他竞争者推出同类产品后，该产品利润率即显著降低。硬盘生产商需要通过不断创新降

2.2 Market Status

After investigation, MOFCOM finds that the HD market has the following characteristics:

First, the market concentration is relatively high. In the recent 20 years, the degree of concentration in the HD market has increased. At present, there are only five manufacturers on the HD market: Seagate, Western Digital, Hitachi Storage, Toshiba and Samsung. In 2010, the above five manufacturers had respectively 33%, 29% 18% 10% and 10% of the global market, with a similar market percentage on the Chinese market.

Second, HD products are obviously homogeneous in nature. The HD manufacturers are not much different from each other in terms of their HD products, and the downstream customers may change suppliers easily in relatively short time, with a low cost for that.

Third, HD market has a relatively high degree of transparency. Both the HD manufacturers and main buyers are relatively limited in number, products are obviously homogeneous, and competitors know each other relatively well in terms of technology, cost, production and sales status, etc. The HD manufacturers may judge, by relevant facts and experiences, the product price or price scope of their competitors. Also, HD manufacturers often use the same distributors, which enable them to know easily, through the distribution channels, information of other brand HD products.

Fourth, large-scale computer manufacturers are the main downstream clients of HD products. The HD products are mainly sold to large-scale computer manufacturers, and also to downstream customers through distributors, and of the two, the large-scale computer manufacturers are the main customers, and the market price is actually determined by the trading price between them and the HD manufacturers.

2.3 Procurement Mode

In order to obtain and maintain competitive price, large-scale computer manufacturers often adopt the mode of non-open bidding in procurement of HD, having bilateral negotiations for each quarter with several manufacturers. In order to guarantee the continuity and safety of supply, large-scale

低成本，创新是硬盘生产商的重要竞争手段。调查还发现，硬盘市场的竞争是维持产品创新的重要前提，排除或限制竞争行为将显著降低硬盘生产商的创新意愿和创新速度。

（六） 买方议价能力和对消费者影响。

调查发现，硬盘厂商主导下游分销商的销售价格，分销商对硬盘厂商不具有抵消性的购买力量。对于大型电脑生产商，硬盘厂商的涨价如不是针对特定企业，一般不会遭到大型电脑生产商的反对。大型电脑生产商有能力通过提高电脑产品的价格，将硬盘价格的上涨转嫁给最终消费者，因此缺乏行使抵消性购买力量的意愿。最终消费者高度分散，对硬盘和电脑价格的上涨没有议价能力。

受2011年7月以来泰国洪灾影响，西部数据硬盘产能受损并率先提高硬盘价格。此后，包括交易双方在内的其他硬盘厂商也提高了产品价格，部分硬盘产品涨价幅度超过100%。调查发现，在其他条件未见明显变化的情况下，个人电脑的销售价格相应上涨，电脑生产商向最终消费者直接转嫁了硬盘的价格上涨负担。

（七） 市场进入。

调查发现，知识产权及其他专有知识对硬盘行业至关重要，特别是非知识产权的核心技术、工艺流程和技术队伍构成进入该市场的实质性障碍。规模经济在相关市场中同样重要，新进入者如无法达到一定的生产和销售则无法生存，而要达到相应规模则需要高额的生产、研发和市场开拓投资，潜在风险巨大。近十年来，没有新的竞争者进入相关市场。据此，商务部认为硬盘市场进入难度很大。

（八） 此项集中对相关商品市场和消费者的影响。

在硬盘市场，交易双方均是重要的生产商，此项集中将减少一个重要的竞争者。考虑到前述大型电脑生产商的采购模式，此项集中增加了剩余硬盘制造商同时获得订单的可能性，削弱了前述采购模式对硬盘生产商的竞争压力。同时，由于硬盘市场透明度较高，硬盘厂商有能力预判其他竞争者的行为，此项集中也进一步增加了市场竞争者通过协调从事排除、限制竞

computer manufacturers will ultimately divide their total demand among 2 to 4 manufacturers, at a certain ratio, according to factors such as price, etc. In a single bidding, the most competitive offer will usually win a relatively big share of order, the less competitive one may win a relatively small share of order, while the least competitive one, no orders. Their procurement mode forces HD manufacturers to compete with each other in order to get orders and get a larger share of orders. Therefore, it is very important to maintain the present procurement mode of large-scale computer manufacturers, as to keep competition on the HD market.

2.4 Capacity Usage

The investigation finds that the HD industry has a relatively high capacity usage rate. In particular, since the fourth quarter of 2008, all HD manufacturers have had their production capacity usage rate increasing continuously. In the fourth quarter of 2010, all five HD manufacturers have their production capacity average usage rate about 90%, with only limited spare capacity left.

2.5 Product Innovation

The investigation finds that innovation has an important influence on the HD industry. Manufacturers who launch new and innovative products may first get a higher market share, and when other competitors launch products of the same category, the profit rate of that product category will drop substantially. HD manufacturers have to reduce their costs through constant innovation, and innovation is indeed an important means of HD manufacturers for competition. The investigation also found that competition on the HD market is an important precondition for the maintenance of product innovation, and any act of exclusion of or restriction on competition will reduce substantially the manufacturers' innovation motivation and innovation speed.

2.6 Buyer's Bargain Ability and Effect on Consumers

The investigation found that HD manufacturers guide the selling price for downstream distributors, while distributors do not have the purchasing strength to offset such guidance from manufacturers. For large-scale computer manufacturers, if the price increase by HD

争行为的可能性。目前，中国是全球最大的个人电脑消费国之一，此项集中将对中国消费者利益造成不利影响。

（九） 审查结论。

综上，商务部认为此项集中将对硬盘市场产生排除、限制竞争的效果。

manufacturers is not set against specific enterprises, they usually do not oppose to such price rising. As large-scale computer manufacturers have the ability to transfer the cost of such HD price increase to end-use consumers by raising the selling price of their own computer products, they lack willingness to exercise the offsetting purchasing strength. The end-use consumers are of a highly dispersing status, having no price negotiation ability against price rising of HD and computers.

As affected by the floods in Thailand since July 2011, Western Digital suffered a loss in its HD production capacity and raised the selling price of HD first. Thereafter, other HD manufacturers, including the Parties, raise the selling price of their products, too. Some HD products have even a price rise over 100%. The investigation found that, under a situation of no obvious changes in other conditions, personal computers also have their selling price increasing accordingly, as computer manufacturers transfer the burden of such price rising of HD directly to the end-users.

2.7 Market Entry

Upon investigation, it is found out that intellectual property rights and other proprietary knowledge are of primary importance to the hard disk industry, especially the core technology of non-intellectual property rights, technical process and technical team constitute a material obstacle to the market entry. Economies of scale also play an important role in the relevant market and newcomers will not be able to survive if they cannot reach a certain degree of productivity and sales, but to achieve the relevant scale requires massive production, research and investment in market expansion, which poses a huge potential risk. In the past decade, there has been no new competitor into the relevant market; therefore, MOFCOM believes it is quite difficult to enter the hard disk market.

2.8 Effect of the Concentration on the relevant Commodities Market and Consumers

In the HD market, both parties are important manufacturers, thus this concentration will eliminate an important competitor. Given the afore-mentioned procurement mode of large computer manufacturers, this concentration will enhance the possibility of the remaining hard disk manufacturers to obtain purchase orders and

	<p>reduce the competitive pressure of the afore-said procurement mode on hard disk manufacturers. Meanwhile, as the hard disk market is relatively more transparent, hard disk manufacturers are able to predict the action of other competitors, and this concentration will further enhance the possibility of market competitors to exclude, restrict competitive action through coordination. At present, China is one of the major PC consumer countries in the world and this concentration will have adverse effect on Chinese consumers.</p> <p>2.9 Conclusion of Examination</p> <p>In summary, MOFCOM believes that this concentration will have the effect of excluding and restricting competition on the HD market.</p>
<p>三、附加限制性条件的商谈</p> <p>在审查期间，商务部向交易双方指出了本项集中将产生的排除、限制竞争效果，并就如何消除上述竞争问题进行了多轮商谈。交易双方先后提出了多轮解决方案。经评估，商务部认为，交易双方提交的最终解决方案能够减少此项经营者集中对竞争产生的不利影响。</p>	<p>3 Conditional Discussions</p> <p>During the examination, MOFCOM pointed out to both parties that the concentration will have the excluding and restricting effect and held several rounds of discussions on how to eliminate such issues of competition. The two traders put forward a few proposals. Upon assessment, MOFCOM thinks that the final proposal submitted by the two parties will reduce the adverse effect of this concentration of undertakings on competition.</p>
<p>四、审查决定</p> <p>审查认为，希捷收购三星硬盘业务对硬盘市场具有排除、限制竞争影响，商务部决定附加限制性条件批准此项集中，申报方应履行如下义务：</p> <p>（一）在相关市场上维持三星硬盘作为一个独立竞争者而存在，包括但不限于以下内容：</p> <p>第一，交易完成后，希捷将组建独立的子公司，负责对原三星公司生产线生产的硬盘产品（以下简称三星产品）独立定价，并以三星品牌独立销售。希捷和三星的销售团队均应向监督受托人报备，接受本决定项下的监督。</p> <p>第二，在前述独立销售团队组建并实际开展相关业务之前的过渡期内，应当由三星的原销售团队继续销售三星产品。过渡期内的销售不得损害三星产品的竞争力。过渡期内三星继续销</p>	<p>4 Decision of Investigation</p> <p>The investigation determined that Seagate's acquisition of Samsung's hard disk business will have the effect of excluding and restricting competition on the hard disk market; therefore, MOFCOM decides to approve this concentration under conditions, and Seagate shall have the following obligations:</p> <p>4.1 Samsung remains as an independent competitor in the relevant market, including but not limited to:</p> <p>First, upon completion of the transaction, Seagate will set up an independent subsidiary responsible for independent pricing of hard disk products of Samsung's previous production line ("Samsung Products") as well as independent sales in the name of Samsung brand. The sales teams of both Seagate and Samsung shall report to the authorized supervisors and be subject to the supervision under this decision.</p>

售的安排和月度销售情况应当向监督受托人报告，接受本决定项下的监督。

第三，交易完成后，希捷应当保持三星产品定价销售团队的完全独立性，在三星产品定价销售团队与希捷其他产品定价销售团队之间建立防火墙，防止双方交换竞争性信息。竞争性信息是指任何可能导致竞争者之间协调彼此经营行为的信息，特别是任何有关产品价格、产量、客户、竞标等方面的信息。三星产品的销售团队只能指定一名负责人向希捷指定的一名负责人汇报。前述两负责人的人选及变更应事先向监督受托人报备，两负责人不得在两团队之间沟通竞争性信息。两负责人之间的任何信息沟通情况均应事先或同时报告监督受托人，接受本决定项下的监督。

第四，希捷应当确保维持三星生产线的独立运行，三星产品生产线应当使用三星的设备、流程和生产系统。希捷可以对三星产品生产线进行技术支持和改造，以提高三星产品的生产效率和竞争力。此种技术支持和改造不得对三星产品的产量或产能施加任何限制性影响，并应向监督受托人进行事先和事后报告，接受本决定项下的监督。

第五，希捷应当确保三星产品独立建立并严格执行合理的产品定价机制。前述定价机制的确立和任何修改，任何偏离该机制的定价行为均应向监督受托人报告，并说明理由，接受本决定项下的监督。

第六，希捷应当针对三星产品设立独立的研发中心。希捷可以给予该研发中心以技术支持，包括允许其采用希捷的标准流程，以提高三星产品的生产效率和竞争力。前述技术支持和任何信息及人员交流均应事先或即时向监督受托人报备，接受本决定项下的监督。

（二）希捷应履行本审查决定作出后6个月内继续维持和扩大三星产品产能的承诺，之后应当根据市场需求状况合理确定三星产品的产能和产量。希捷和三星产品的产能及产量情况应当按月向监督受托人报告。

（三）集中完成后，希捷不得实质性改变当前的商业模式，强制或变相强制客户从希捷或任何受希捷控制的公司排他性地采购其硬盘产

Second, during the transitional period before the aforesaid sales teams are established and conduct the relevant business, Samsung's existing sales team shall continue to sell Samsung Products. The sales during the transitional period shall not jeopardize the competitiveness of Samsung Products. During the transitional period, Samsung shall report to the authorized supervisor of the arrangement of continuous sales and monthly sales and be subject to the supervision under this decision.

Third, upon completion of the transaction, Seagate shall maintain the absolute independence of the Samsung sales team's product pricing and set up a fire wall between the sales teams of Samsung and Seagate to prevent the two teams from exchanging information on competition. The information on competition means any information that may lead to coordination of their respective business operation between the competitors, especially information on product price, client and competitive bidding. The sales team of Samsung shall designate only one person responsible for reporting to a person in charge designated by Seagate. The nominees of the aforesaid two persons and any change thereto shall be reported to the authorized supervisor for the record in advance and the two persons in charge shall not communicate between the two teams regarding information on competition. Furthermore, any communication between the two persons shall report to the authorized supervisor beforehand or simultaneously and be subject to the supervision under this decision.

Fourth, Seagate shall ensure independent operation of Samsung's production line and the production line of Samsung shall use Samsung's equipment, process and production system. Seagate may carry out technical support and innovation to Samsung production line in order to improve productivity and competitiveness of Samsung Products. Such technical support and innovation shall not exert any restrictive effect on the productivity and capability of Samsung Products and shall be reported to the authorized supervisor beforehand and afterwards and be subject to the supervision under this decision.

Fifth, Seagate shall ensure that it would independently set up and strictly implement a reasonable pricing mechanism for Samsung Products. The establishment of such pricing

<p>品。</p> <p>（四）集中完成后，希捷不得迫使东电化（中国）投资有限公司（以下简称东电化）排他性地向希捷或任何其他受希捷控制的公司供应硬盘磁头，或限制东电化向其他硬盘生产商供应磁头的数量。</p> <p>（五）希捷承诺，本决定作出后三年内每年投资至少8亿美元，且将以希捷近年一贯的速度，继续和创新领域投入研发资金的承诺，以确保给客户带来更多创新性产品和解决方案。</p> <p>（六）根据商务部《关于实施经营者集中资产或业务剥离的暂行规定》（商务部公告2010年第41号），希捷委托独立的监督受托人对希捷履行上述义务的情况进行监督。</p> <p>本决定实施12个月后，希捷可以向商务部提出解除上述第（一）、（二）项义务的申请。该申请应说明本决定项下附加限制性条件的实施情况和解除上述第（一）、（二）项义务的理由并提供相关证据。商务部将依申请并根据市场竞争状况作出是否解除的决定。</p> <p>为履行上述义务，希捷应当在监督受托人确定一周内提交详细的操作方案并报商务部批准后实施。</p> <p>商务部有权通过监督受托人或自行监督检查希捷履行上述义务的情况。希捷未适当履行上述义务，商务部有权根据《反垄断法》相关规定作出处理。</p>	<p>mechanism and any change thereto, including any deviation from such pricing mechanism, shall be reported to the authorized supervisor, stating the reasons, and shall be subject to the supervision under this decision.</p> <p>Sixth, Seagate shall set an independent R&D center in respect of Samsung Products. Seagate may give technical support to such R&D center, including allowing use of Seagate's standard process in an effort to improve the productivity and competitiveness of Samsung Products. The afore-mentioned technical support and information exchange shall be reported to the authorized supervisor beforehand or simultaneously and shall be subject to the supervision under this decision.</p> <p>4.2 Seagate shall honor its undertaking to maintain and expand the productive capacity of Samsung Products within six months after the decision of the examination. The productive capacity and productivity of both Seagate products and Samsung Products shall be reported to the authorized supervisor on monthly basis.</p> <p>4.3 Upon completion of the concentration, Seagate shall not materially change the current commercial mode by forcing clients or forcing client in a disguised form to exclusively purchase hard disk products from Seagate or from companies controlled by Seagate.</p> <p>4.4 Upon completion of the concentration, Seagate shall not force TDK China Co.Ltd. to exclusively supply hard disk heads to Samsung or companies controlled by Seagate, or limit the number of hard disk heads supplied by TDK China Co.Ltd. to other hard disk manufacturers.</p> <p>4.5 Seagate undertakes that, within three years of this decision, Seagate shall invest at least US\$700,000,000 for each year and shall continue to honor its commitment to funding research and development in innovation at its usual speed for the recent years, in order to bring about more innovative products and solutions to clients.</p> <p>4.6 In accordance with the Tentative Provisions on Implementation of Divestiture of Assets or Business Operators Concentration Enterprises (MOFCOM Announcement 2010 No.41), Seagate shall appoint the independent authorized supervisor to supervise its performance of the aforesaid Seagate obligations.</p>
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	<p>Twelve months after implementation of this decision, Seagate may request MOFCOM to release the obligation under the preceding items (1) and (2). Such request shall describe the implementation of the qualifications under this decision and cite reasons for release of the obligation under the preceding items (1) and (2), together with the relevant evidence. MOFCOM shall, depending on the competition of the market, decide whether to release such obligation or not.</p> <p>For purposes of fulfilling the aforesaid obligations, Seagate shall, within one week of appointment of the authorized supervisor, come up with detailed operation proposal and submit the same to MOFCOM for approval and implementation thereafter.</p> <p>MOFCOM may supervise and examine Seagate's performance of its obligations through the authorized supervisor or on its own. Should Seagate fail to properly perform its aforesaid obligations, MOFCOM has the power to address such issue in accordance with the relevant provisions of the PRC Anti-Monopoly Law</p>
本公告自发布之日起生效。	This announcement comes into effect as of the date of its issuance.