

THE CHINESE LOGIC OF FAIR COMPETITION REVIEW UNDER THE THRESHOLD OF INSTITUTIONAL CHANGE: RECONSTRUCTION OF THE GOVERNMENT-MARKET RELATIONSHIP BASED ON THE TRANSFORMATION OF THE SOCIALIST MARKET ECONOMY SYSTEM

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Abstract: Adjustment of government-market relations in the context of deepening transformation of the socialist market economy system is not only the core proposition of the theoretical innovation of the socialist market economy with Chinese characteristics, but also the strategic issue of systematic openness in the transformation of the global governance system. This paper takes the fair competition review system as a research sample, and based on the cross-analytical framework of institutional economics and regulatory jurisprudence, systematically explains the regulatory logic and realization path of this institutional innovation on the dynamic adjustment of government-market relations in the transition period. The study shows that the evolution of China's fair competition review system is characterized by the synergistic evolution of the triple logic of politics, economy and rule of law - in the political dimension, it is the dialectical unity of political leadership and system supply under the centralized and unified leadership of the Party Central Committee, and in the economic dimension, it reflects the deepening demand for the reform of market allocation of factors to break administrative monopoly, while in the rule of law dimension, it shows the deepening demand for the reform of market allocation of factors to break administrative monopoly. The dimension of the rule of law highlights the inherent requirements of the transformation from administrative control to the rule of law governance paradigm. Through the construction of the "pilot-propagation" system implementation mechanism, the dynamic balance between the central coordination of regulatory authority and local exploration of system innovation has been realized, forming a paradigmatic model of gradual and adaptive system innovation. From the perspective of system effectiveness, this model not only effectively regulates the path-dependent inertia of the traditional planned economy system, but also prospectively prevents the externality risk of the neo-liberal governance paradigm, and provides an institutional innovation paradigm for the emerging market economies to build a modern economic governance system in which the government is competent, the market is effective, and the rule of law is in order. The theoretical value of this paper lies in the fact that by revealing the composite power mechanism of political potential, market law and rule of law in the process of China's institutional change, it not only expands the explanatory dimension of institutional economics theory in transition economies, but also, more importantly, constructs an autonomous knowledge system of the basic theories of competition policy; and its practical revelation lies in the fact that it provides an operational system optimization for the construction of a new era of perfecting the market-determined factor allocation mechanism and advancing the rule of law-oriented business environment. Its practical revelation is that it provides an operable system optimization path for improving the market-determined factor allocation mechanism and promoting the rule of law business environment in the new era.

Keywords: Institutional change; Fair competition review; Government-Market relations; Socialist market economy; Chinese logic

1 INTRODUCTION

1.1 Background of the Study

Global competition policy has been converging under the dual impetus of the WTO rules system and regional trade agreements, but this process is encountering the deep-seated challenge of the differences in institutional endowments among countries. As the largest developing country, the uniqueness of China's socialist market economy system is centered on the dialectical unity of "effective market" and "competent government": on the one hand, it needs to follow the universal law of market economy and interface with international rules, and on the other hand, it must be based on the basic national conditions of the primary stage of socialism to safeguard the economy. On the one hand, it is necessary to follow the general law of market economy and connect with international rules, and on the other hand, it is necessary to safeguard economic sovereignty based on the basic conditions of the primary stage of socialism. Against this background, the fair competition review system, as a "system converter" connecting government governance and market mechanism, has become a key institutional innovation to crack the stubborn problem of administrative monopoly and build a national unified market. By the end of 2023, China's various regions and departments had reviewed a total of 1,412,700 newly introduced policies and measures, cleaned up 3.4 million policies and measures of

various types, and repealed, revised and corrected 75,000 policies and measures that violated the law (Synthesizing the relevant data in the "Annual Report on China's Anti-Monopoly Law Enforcement 2019" of the Antimonopoly Bureau of the State Administration for Market Supervision and Administration, the "Annual Report on China's Anti-Monopoly Law Enforcement 2020" of the Antimonopoly Bureau of the State Administration for Market Supervision and Administration, the "Annual Report on China's Anti-Monopoly Law Enforcement 2022" of the State Anti-Monopoly Bureau and the relevant data in the State Antimonopoly Bureau's Annual Report on China's Antimonopoly Enforcement 2023); the effectiveness of the system has been improved year by year, vigorously safeguarding the nation's unified market and fair competition, and effectively breaking down barriers and obstacles to improving the basic system of a fair and competitive market economy. However, in certain industries or fields, private enterprises still face high barriers to entry, including administrative approvals, industry monopolies, local protection and other hidden barriers[1]. This shows that the release of system effectiveness still faces deep obstacles. In essence, the system's operational difficulties reflect the structural tension of the "government-market" relationship in the transformation of the market economy: how to maintain the government's macro-control capacity while curbing undue interference of administrative power in market competition constitutes the core proposition of modernized governance in China.

1.2 Literature Review

Two paradigms have been formed in the international academic research on the relationship between competition policy and the institutional environment: the new institutional economics school emphasizes the role of formal rules in constraining economic behavior [2], but it is difficult to explain the institutional efficacy of China's informal governance mechanisms; the theory of the developmental state pays attention to the shaping of market systems by political power structures[3], but its analytical framework of "inclusive institutions" is difficult to be compatible with the specificities of China's party-governance system. Scholars generally agree that the fair competition review system plays an important role in regulating administrative monopoly. Chi, I.D. and Hao, Y.D. point out that the fair competition review system can help fundamentally contribute to the construction of a unified national market, especially in solving the problems of serious discriminatory industrial policy interventions, market segmentation, and weak regulation of natural monopolies[4]. Liu Bingbing and Liu Jingjiao, on the other hand, from the perspective of restricting administrative monopoly-type competition policy, emphasize that the fair competition review system can enhance the level of competition in industries, reduce the degree of institutional transaction costs of enterprises and the degree of credit resource misallocation among enterprises[5]. Meanwhile, Meng Yanbei further adds that the fair competition review is one of the important measures of industrial policy reform to conduct competition assessment of industrial policy measures and minimize the damage of industrial policy measures to competition[6]. In the process of building a high-standard market system, the fair competition review system has been given an important role. Ma Jiantang mentions that the system has been made more complete by optimizing the business environment legislative protection, and has strengthened the equal protection of all types of market entities[7]. In addition, Sun Jin also believes that the fair competition review system can implant competition genes and provide optimization paths for government regulation, preventing administrative monopoly from the source and improving the efficiency of resource allocation[8]. Wang Xiaoye, on the other hand, suggests that in the process of revising the antitrust law, priority should be given to the problems that urgently need to be solved in law enforcement, and that the process of reforming China's economic system and the status quo of law enforcement agencies should be taken into account[9]. In addition, the relationship between the fair competition review system and industrial policy has received extensive attention. Liu Dahong reiterated the concept of equality of rules for market subjects, arguing that state economic intervention must not violate and destroy fair competition in the market[10]. while Chen Zhao et al. combined with historical lessons and pointed out that in the future, it is necessary to accelerate the transition from selective industrial policy to functional industrial policy, liberalize market access, and continuously promote the fair competition review system[11]. Ye Guangliang et al. constructed a government-enterprise interaction model and found that competition policy and functional industrial policy are conducive to improving the efficiency of market competition[12].

Although research on fair competition review has accumulated rich results, there are two major problems: first, the effectiveness of the self-review mechanism. Li Junfeng raised the issue that the "self-review" mechanism may be unable to review due to lack of capacity or unwilling to review due to distorted incentives[13]. He suggests that information on the competition compliance status of a specific administrative organization should be included in the reference factors of cadre appointment and dismissal assessment, and that an information processing mechanism should be constructed to solve the dilemma. Similarly, Jin Shanming criticizes the existing fair competition review system for the serious homogenization of textual norms of implementation and the single rigid mode of practice, and the lack of externalized constraints[14]. Second, how to promote the fair competition review towards the direction of rule of law. Scholars have put forward different opinions on this. Sun Jin calls for the advancement of fair competition review into constitutional review to promote the rule of law in competition[15]. Wang Xianlin proposes to clarify the basic status of competition policy and establish corresponding principles such as the basic requirements of the fair competition review system, so as to revise and improve the anti-monopoly law[16]. In addition, Zhang Zhanjiang, from the perspective of competition neutrality, argues that it is necessary to return the antitrust law to its constitutional linkage to improve its authority, and at the same time improve its general regulatory framework[17].

1.3 Historical Evolution

1.3.1 1993-2007: Institutional emergence - structural conflicts between legislative foundations and local protection

The enactment of the Anti-Unfair Competition Law in 1993 marked the historic start of the rule of law in China's competition policy. At the beginning of the legislative process, Article 7 of the Law explicitly prohibited administrative powers from restricting the free flow of goods, but in practice it was systematically dissolved by local protectionism. In 2001, a county government in Anhui Province restricted the entry of foreign fertilizer enterprises into the local market by setting up additional inspection links and levying surcharges, and was ultimately notified of the violation of the Law by the former State Economy and Trade Commission [18]. This case is one of the typical cases of anti-administrative monopoly in the early stage of China, which reflects the central government's efforts to combat local protectionism and provides a practical reference for the subsequent refinement of administrative monopoly regulation in the Anti-Monopoly Law. The effectiveness of the system at this stage is limited by two structural contradictions: first, the local government has alienated its administrative power into a market segmentation tool under the mechanism of fiscal decentralization and GDP assessment; second, the means of governance relies on after-the-fact investigation and punishment of individual cases and lacks a systematic preventive mechanism. A survey conducted by the Development Research Center of the State Council in 2004 showed that, out of the 3,156 questionnaires collected from enterprises, 59% of the respondents believed that the local government would protect important raw materials. Government will protect important raw materials, and even 69% of the questionnaire that the local government will limit the proportion of local enterprises to distribute foreign products, etc. [19], indicating that there is a significant gap between the legal text and the practical effect. This provides a realistic direction for the subsequent institutional innovation - how to curb the distortion of market competition by administrative power from the root.

1.3.2 2008-2015: Period of institutional exploration - antimonopoly law enforcement and institutional limitations

After the implementation of the Anti-Monopoly Law in 2008, the regulation of administrative monopoly was incorporated into the framework of the rule of law, but the inherent defects of the system design constrained the effectiveness of the practice. In November 2013, the Third Plenary Session of the 18th CPC Central Committee decided to "deepen the reform in a comprehensive manner", and put forward a new theory of "the market plays a decisive role and the government's role is better utilized", which raised the importance of fair competition to a new historical level. The Third Plenary Session of the 18th CPC Central Committee decided to "comprehensively deepen the reform" in November 2013, and put forward the new assertion that "the market plays a decisive role and the government plays a better role", which raises the importance of fair competition to a new historical level. At the Plenary Session, General Secretary leader pointed out that the Political Bureau of the Central Committee believes that, in the face of the new situation and new tasks and requirements, the key to comprehensively deepening the reform is to further form a fair and competitive development environment, further enhance the vitality of economic and social development, further improve the efficiency and effectiveness of the government, further realize social justice, further promote social harmony and stability, and further improve social harmony and stability, and further enhance the development of a fair and competitive environment. further promote social harmony and stability, and further improve the Party's leadership and governing ability. The "further formation of a development environment with fair competition" is a prerequisite for "the market to play a decisive role and the government to play a better role[20]." The case of the Shandong Provincial Department of Transportation designating passenger transportation enterprises in the province to use a specific GPS service provider in 2015 exposed the then existing system of decentralized antitrust enforcement powers and the need for a more efficient and effective government [21]. Institutional obstacles to decentralized anti-monopoly enforcement: the price regulator and the industry and commerce department delayed the investigation due to disputes over the division of powers, and it took five months to complete the enforcement. These contradictions pushed the decision makers to realize that fragmented enforcement actions are difficult to eradicate administrative monopoly, and there is an urgent need to build a preventive institutional system. From March 2015, "Several Opinions on Deepening the Reform of Institutional Mechanisms and Accelerating the Implementation of the Innovation-Driven Development Strategy" "Several Opinions on Promoting the Reform of Price Mechanisms" and other central government documents successively put forward the idea of "speeding up the establishment of a coordinated system of competition policy and industry, investment and other policies", "exploring the implementation of a fair competition review system", and "gradually establishing the fundamental status of competition policy", etc. Since June 2015, the NDRC and the former Legislative Affairs Office of the State Council have started to draft a fair competition review system. drafting the fair competition review system. The NDRC formed the manuscript on the basis of the results obtained from years of research on competition policy, and with reference to the experiences and practices of developed countries and regions in the coordination mechanism between competition policy and other economic policies. After consulting departments, governments, experts, scholars and enterprises for many times, the draft was submitted for consideration in accordance with the procedures [22].

1.3.3 2016-2021: System building period - system building and review mechanism innovation

The introduction of the State Council's Opinions on the Establishment of a Fair Competition Review System in the Construction of the Market System (Guo Fa [2016] No. 34) in 2016 marked the entry of the system into a systematic construction phase. Its innovativeness is reflected in three aspects: first, the establishment of a dual-track mechanism of "self-review + external supervision", which requires the policy-making authorities to conduct compliance review at the document drafting stage; second, the construction of 18 review criteria in four categories, namely, market access, flow of commodities, operating costs, and business conduct, forming the world's first complete indicator system for administrative monopoly; third, the establishment of a fair competition review system through policy clearance and the

introduction of a new system of indicators; and third, the establishment of a fair competition review system through policy clearance and the establishment of a new system of indicators. indicator system; third, through the combination of policy clearance and incremental review, Xu Shaoshi, Chairman of the Finance and Economic Committee of the National People's Congress (NPC), made the "Report of the Law Enforcement Inspection Group of the Standing Committee of the National People's Congress on the Inspection of the Implementation of the Law of the People's Republic of China on the Prevention of Unfair Competition" in the 24th Meeting of the Standing Committee of the Thirteenth National People's Congress (NPC) on December 23, 2020. As mentioned in the Report, in accordance with the principle of "who formulates, who examines", the relevant departments have carried out stock clearance and incremental scrutiny of normative documents, focusing on examining policies and measures relating to market access, industrial development, investment promotion, bidding and tendering, government procurement, and other policies and measures involving the economic activities of market entities. Since 2016, a total of 1.89 million documents have been sorted out nationwide, and more than 30,000 documents involving local protection, designated transactions and market barriers have been cleaned up and abolished. In addition, since the implementation of the fair competition review system in 2016, local pilots have provided key experience for the improvement of the system: Fujian Province has carried out a province-wide fair competition review publicity work, the Standing Committee of the Fujian Provincial People's Congress has launched a special review of fair competition in the market to clean up the market, Jiangsu, Anhui, Hainan and other places have included the work of fair competition review in the training system of the Party school, Beijing, Liaoning, Jiangsu and Zhejiang have carried out a fair competition Review of incentive work, Hainan introduced investment promotion, government-enterprise cooperation in the field of fair competition review guidelines, to carry out Hainan Province to implement the "General Office of the Central Committee of the Communist Party of China, the General Office of the State Council issued <Opinions on the strengthening of anti-monopoly and in-depth promotion of fair competition policies and measures> notice" assessment, Xizang set up the country's first fair competition review of the Council of the Expert Pool and has been a clear division of experts to assist the autonomous region of the departments Fair competition review related work, Zhejiang to carry out the province's fair competition review on-site sampling inspection work, Shanghai to carry out fair competition review will review the work of the assessment, Henan in the province's government departments above the county level to comprehensively establish a fair competition review of the internal specific agency unified review work mechanism (specific agency unified review), Zhejiang, Anhui and other places to carry out government procurement and bidding areas of the work of the special assessment, Inner Mongolia to establish the Inner Mongolia has established a system for publicizing typical cases of fair competition review, and Jiangsu, Shanghai, Anhui, Zhejiang and Hainan have launched fair competition review contests. However, the implementation of the system still has shortcomings, on May 9, 2020, the State Administration of Market Supervision jointly with the National Development and Reform Commission, the Ministry of Finance, the Ministry of Commerce and other four departments jointly issued the "Notice on Further Promoting the Work of Fair Competition Review", which puts forward the implementation of the Fair Competition Review System is a major decision-making deployment of the CPC Central Committee and the State Council to deepen the reform of the economic system. It is believed that the fair competition review work has achieved positive results, but there are still review rules still need to be improved, the system is not sufficiently rigid constraints, the ideological understanding of some regions and departments is not in place, and the quality of the review of policies and measures is incomplete and not high, among other salient issues[23]. This indicates that the formal review still needs to be deepened towards substantive fairness.

1.3.4 2022 to present: system deepening period - upgrading and deepening implementation of the rule of law

Strategies such as the construction of a unified national market, the construction of an optimized business environment, and the promotion of the development and growth of the private economy have pushed the fair competition review system deeper and deeper into the rule of law. 2022 The Anti-Monopoly Law, which was revised in June 2022, enshrined the fair competition review system into the law, and the Fair Competition Review Rules for the Bidding and Tendering Sector, which was led and issued by the National Development and Reform Commission (NDRC) on March 25, 2024, has filled in the Fair Competition Review System Rules blank, providing a reference for policy-making authorities to accurately understand and apply the review standards, helping to standardize the government's bidding and tendering policy-making behavior, solving the problem of barriers to bidding and tendering transactions set up by local government departments, and safeguarding a fair and competitive market environment. 2024 The State Council published the Regulations on the Review of Fair Competition in June 2024, establishing three breakthroughs: the scope of the review was extended to draft legislation, the It established a cross-sectoral joint review mechanism, and made it clear that the State Council regularly carries out inspections of the construction of fair competition review work mechanisms, the implementation of fair competition review work, and the handling of reports by local people's governments at and above the county level. 2025 On February 28, the Implementation Measures for the Regulations on Fair Competition Review were issued and formally came into effect on April 20, 2025. 2026 It further strengthened the rigid constraints on fair competition review, and established three breakthroughs. It further strengthens the rigid constraints on fair competition review, maintains a fair and competitive market order, and accelerates the construction of a unified national big market.

1.3.5 Evolutionary patterns: institutional resilience in progressive adaptation

The evolution of China's fair competition review system shows a distinctive feature of "gradual adaptation": in the early period (1993-2015), it was dominated by issue-driven reforms, responding to local protectionism through the Anti-Unfair Competition Law and the Anti-Monopoly Law; after 2016, it shifted to strategically-led innovation, and

systematization of the system was promoted by top-level design. Its success lies in two major institutional advantages: first, the centralized and unified leadership of the CPC ensures the stability of the reform direction, and the risk of institutional innovation is controlled through the mechanism of "central decision-making-local pilot-experience dissemination"; second, the combination of "effective market" and "competent government" is the key to the success of the reform. Second, the dialectical unity of "effective market" and "competent government" enables the system to respond to the demands of enterprises and to respond to technological changes (e.g., regulation of the digital economy) in a forward-looking manner. History has shown that the resilience of China's institutional change stems from practical rationality - while maintaining the stability of the core framework, it has absorbed local innovations and balanced diversified interests through gradual adaptation, providing a Chinese solution to modernize the governance of the world's transition economies.

2 THEORETICAL FRAMEWORK: THE TRIPLE LOGICAL INTERACTION OF INSTITUTIONAL CHANGE

2.1 Political Logic: Party Leadership and Institutional Provision of Policy Pilots

The construction of the socialist market economy system with Chinese characteristics has always been based on the centralized and unified leadership of the Party as the fundamental political guarantee. In the generation and evolution of the fair competition review system, the core of the political logic is reflected in the composite system supply mode of "top-level design leading-local pilot innovation-central authority absorbing". The Central Committee for Comprehensively Deepening Reform (formerly the Central Deepening Reform Group), as the core decision-making hub for institutional innovation, delineates the reform framework through strategic deployment (e.g., the Opinions on Establishing a Fair Competition Review System in the Construction of the Market System in 2016), and at the same time releases the space for local innovation by relying on the mechanism of policy pilots. For example, in 2017, the National Development and Reform Commission's Bureau of Price Supervision, Inspection and Anti-Monopoly refined the pilot experience into the "Implementation Rules for the Fair Competition Review System (Provisional)" (NDRC Price Supervision (2017) No. 1849) on the basis of summarizing the experience of carrying out the fair competition review work and the third-party evaluation of the pilots to form the "Pilot-Assessment-Promotion" closed loop of institutional reproduction. The uniqueness of this political logic lies in the fact that not only does it ensure the consistency of the direction of reform through the political authority of the Party, but also realizes the flexibility of the system with the help of the mechanism of "hierarchical experimentation", which effectively resolves the structural contradiction between the unified system of norms and the differentiated governance needs of the localities. As Deng Xiaoping once said, "a good system can make the bad people can not be arbitrary, a bad system can make the good people can not be fully good, and will even go to the opposite[24]". The essence of this is that the CPC, as a "meta-governor" of institutional change, has been able to transform political potential into institutional effectiveness, avoiding the risk of institutional fragmentation that is common in countries in transition.

2.2 Economic logic: Market-Oriented Reforms Forcing the Transformation of Government Functions

The economic logic is driven by the endogenous need to transform the socialist market economy system. Hurwitz (2006) rigorously demonstrates that under the neoclassical economic environment class, there is no other mechanism that can achieve a Pareto-optimal allocation with lower information costs than the competitive market process[25]. Also for the pure exchange neoclassical economic environment class, Jordan (1982) further proved that the competitive market mechanism is the one that utilizes the least amount of information and produces an efficient allocation of resources [26]. Does a similar conclusion hold in the case of an economic environment class that includes production? Tian (2006) gives an affirmative answer and a rigorous proof by applying mathematical tools such as differential topology and algebraic topology [27]. As Deng Xiaoping said, "Our leading organs at all levels are in charge of a lot of things that they should not be in charge of, that they cannot be in charge of, that they cannot be in charge of, and that can be handled very well as long as there are certain rules and regulations, and that they are put down there, in enterprises, undertakings, and social units, and that they are allowed to deal with them on their own really in accordance with the system of democratic centralization, but when they are brought collectively to the party and government leading organs and to the central government departments, then they will have a very difficult time [28]". With the strengthening of the decisive role of the market in resource allocation, the traditional industrial policy-led government intervention model is increasingly facing the problem of distortion of resource allocation caused by administrative monopoly. Between 2013-2022, the State Council further decentralized and liberalized the government, liberalized market access, and comprehensively implemented the negative list system for market access, and the list of management measures has been reduced by 64% compared with the beginning of the establishment of the system, and the administrative licensing matters have been All administrative licenses are included in the list management. Over the years, more than 1,000 administrative licenses have been canceled and decentralized, investment projects approved at the central government level have been reduced by more than 90%, production licenses for industrial products have been reduced from 60 to 10 categories, and the approval time for the whole process of engineering and construction projects has been compressed to no more than 120 working days [29]. Zheng Bei, deputy director of the National Development and Reform Commission, mentioned in the "Report of the State Council on Promoting the Development of the Private Economy" at the 10th

Meeting of the Standing Committee of the 14th National People's Congress on June 25, 2024 that "contradictions in terms of market access and access to factors are still more prominent, and implicit barriers to the entry of private enterprises into some key areas still exist. Some private enterprises still have difficulties in obtaining equal access to capital, talents, technology, data and other factor resources. The protection of private enterprises' property rights and entrepreneurs' rights and interests is still insufficient; laws and regulations to safeguard the development of the private economy are not yet perfect; administrative law enforcement and criminal justice have yet to be optimized; and cases of rumor-mongering, discrediting of private enterprises, and infringement of entrepreneurs' personal rights, personality rights, and property rights still exist. There are still shortcomings in the implementation of policies and the provision of services, and the phenomena of "glass door", "spring door", and "revolving door" still exist in the implementation of some policies, while the construction of integrity in government affairs in some places has yet to be strengthened. In some places, the integrity building of government affairs needs to be strengthened, and the problem of "serial debts" of enterprises still needs to be solved." This tension has forced the government to shift its functions from "pre-approval" to "post-approval supervision", and the fair competition review system is precisely the institutional vehicle for this transformation. The promotion of the negative list management mode (e.g., the matters covered by the Negative List for Market Access (2022 Edition) have been reduced by 64% compared with the establishment of the Negative List in 2018 [28]) is essentially to reconfigure the rules of "government-market" interactions through the delineation of the boundaries of the government's power. The evolution of economic logic shows that market-oriented reform is not only the goal of institutional change, but also the driving force of institutional innovation - when local governments compete to implement selective industrial support policies in pursuit of GDP growth, the resulting regional market segmentation has given rise to the need to strengthen the system of fair competition review, resulting in the formation of a "market failure-government failure" and a "market failure-government failure". The spiral evolution path of "market failure - government intervention - system correction".

2.3 The Logic of the Rule of Law: Evolution from Policy Review to Rule of Law-Based Safeguards

The logic of the rule of law has marked a profound transformation of China's competition policy governance paradigm. In the early days, the fair competition review mainly relied on self-examination by administrative organs, and there was a systemic flaw of "acting as both athlete and referee". On February 12, 2019, in order to strengthen the external support for the fair competition review, improve the quality of the review, ensure the effectiveness of the review, and promote the in-depth implementation of the fair competition review system, according to the Opinions of the State Council on Establishing a Fair Competition Review System in Market Opinions on Establishing a Fair Competition Review System in the Construction of the Market System (Guo Fa [2016] No. 34), the State Administration for Market Supervision and Administration (SAMSA) researched and formulated the Implementation Guidelines for Third-Party Evaluation of the Fair Competition Review on February 12, 2019, which was revised on April 26, 2023. On June 24, 2022, in accordance with the Thirty-Fifth Meeting of the Standing Committee of the Thirteenth National People's Congress Decision on Amending the Anti-Monopoly Law of the People's Republic of China, the fair competition review system was formally incorporated into the law, and Article 5 of the Anti-Monopoly Law stipulates that "The State establishes and improves the fair competition review system. Administrative organs and organizations authorized by laws and regulations with the function of managing public affairs shall conduct a fair competition review when formulating regulations involving the economic activities of market players." On June 6, 2024, Premier Li Qiang issued the Regulations on Fair Competition Review (State Council Decree No. 783), which further strengthened the external supervision of the fair competition review, and explicitly established mechanisms for building a comprehensive fair competition review of sampling, handling of reports, supervision, assessment and evaluation, and concurrent review.²⁰²⁵ On February 28, 2025, the Measures for Implementing the Regulations on Fair Competition Review (State Market Supervision and Administration Order No. 99) was issued and came into force on April 20th. It further strengthens supervision and safeguards, provides for supervisory rectification, interviews, written reminders and urges, administrative recommendations and other dispositive measures for violation of the provisions of the Regulations, and makes good connection with the Anti-Monopoly Law, further strengthens the accountability, and safeguards the system to be implemented on the ground.

At the level of judicial practice, in the 2019 "Fujian Quanzhou Haisi Ship Appraisal and Consulting Co. v. Fuding City Bureau of Ocean and Fisheries Abuse of Administrative Power to Restrict Competition" (Fujian High People's Court. Administrative Judgment (2019) Min Xing Zhong No. 159), the Fujian Higher People's Court found that when the administrative act under appeal is the designation of a specific operator, the operator thereby excluded from participation in market competition has an As Haisi Ship Appraisal Company was not one of the appraisal organizations in the Fujian Provincial State-owned Assets Supervision and Administration Commission's filing list, it considered that the Fuding Municipal Bureau of Ocean and Fisheries, in the provisions of the implementation plan of the marine fishing vessel renewal and reconstruction project, had designated the fishermen of the fishing vessels involved to choose appraisal organizations to appraise the cost of the fishing vessels from the list of appraisal organizations filed with the Fujian Provincial State-owned Assets Supervision and Administration Commission, thereby precluding them from participating in the fair competition in the market of the cost of appraisal of the fishing vessels, and initiated the action. The court held that the plaintiff had an interest in the administrative act under appeal and was qualified as a plaintiff in accordance with the law. The "Fuding City Standardized Marine Fishing Vessel Renewal and Reconstruction Project 2015-2016 Annual Implementation Plan" (Dinghai Fishery (2018) No. 136) issued by the Fuding City Bureau of Ocean

and Fishery limits the scope of the relevant fishermen's selection of assessment organizations to the Fujian Provincial State-owned Assets Supervision and Administration Commission's filing directory, which in fact excludes other assessment organizations with corresponding assessment qualifications, including the Haisi Ship Appraisal Company, from participating in the market competition on a fair basis. This violates Article 32 of the Anti-Monopoly Law: "Administrative organs and organizations authorized by laws and regulations with the function of managing public affairs shall not abuse their administrative power to restrict or in a disguised manner restrict units or individuals to operate, purchase or use goods provided by their designated operators." The relevant provisions of the Anti-Monopoly Law were amended in 2022 to include the "sound fair competition review system" in the law, marking the upgrading of the review mechanism from a policy tool to an administrative body. The amendment of the Antimonopoly Law in 2022 included "improving the fair competition review system" in the law, marking a major breakthrough in elevating the review mechanism from a policy tool to a legal system. The deepening of the rule of law process is reflected in a triple shift: in terms of normative form, from scattered departmental regulations to systematic legal norms; in terms of implementation mechanism, from campaign-style cleanup to regularized supervision; and in terms of accountability, from internal notification and criticism to judicial accountability. However, it should be noted that the current system is still subject to such practical constraints as insufficient legalization of the review criteria (e.g., only 4 of the 18 review criteria have a clear legal basis). According to Articles 8 to 11 of the Regulations on Fair Competition Review, the review criteria are categorized into four types and 19 items; however, only four of the criteria have a clear basis in law or administrative regulations, while the remaining criteria are mostly in principle or lack the support of a higher-level law. For example: Article 8, Restrictions on market access and exit: based on Article 37 of the Anti-Monopoly Law, but the specific operational rules are not clear. Article 9, Restricting the free flow of goods: some of the provisions can be traced back to Article 34 of the Anti-Monopoly Law on territorial monopolization, but most of the provisions lack a direct legal basis. Article 10, Affecting the Cost of Production and Operation: It is only stipulated that "without the basis of laws or administrative regulations or without the approval of the State Council", it shall not be implemented, but the specific legal provisions are not specified. Article 11, Influence on production and operation behavior: Some provisions are related to the prohibition of administrative monopoly under the Anti-Monopoly Law, but they do not fully match) and limited scope of judicial review (abstract administrative acts are not justiciable), which reflects the progressive nature of the rule of law and points the way to the optimization of the system.

2.4 Interactive Mechanisms: Dynamic Equilibrium of the Triple Logic of "Pressure-Response-Adaptation"

The interaction of political, economic and rule of law logic is not a linear superposition, but rather a dynamic equilibrium realized through "pressure identification - subject response - system adjustment" in the system change. In the field of digital economy regulation, this interactive mechanism is particularly significant: market disorder caused by the uncontrolled expansion of the platform economy (pressure of economic logic) → the Central Reform Group deployed a "strengthened anti-monopoly" special action (political logic response) → the revision of the Anti-Monopoly Law to add a special chapter on the platform economy (rule of law logic solidification) → the pilot data elements market Fair competition rules (a new round of institutional adaptation). In this process, political logic provides authorization for reform legitimacy, economic logic sets the agenda for institutional innovation, and rule of law logic reduces transaction costs through rule stability. The synergy of the three is not spontaneous, but rather relies on the advantages of the socialist system with Chinese characteristics to achieve organic integration - the centralized and unified leadership of the Party ensures the consistency of the goals of the three logics, the laws of the market economy constitute the objective constraints on the design of the system, and the rule of law provides procedural safeguards for the balance of multiple interests. This dynamic equilibrium mechanism not only avoids the defects of mechanical determinism of "structure-function" in the Western theory of institutional change, but also transcends the paradigm of "market-government" dichotomy in traditional transition economics, and provides a new theoretical perspective for explaining the resilience of China's institutional innovation. It also transcends the "market-government" dichotomy paradigm of traditional transition economics, providing a new theoretical perspective to explain the resilience of institutional innovation in China.

3 INTERNATIONAL COMPARISONS AND THE UNIQUENESS OF THE CHINESE PROGRAM

3.1 Differences with the EU State Aid Control System

The difference in institutional design between China and the EU in terms of competition policy is essentially a fundamental divergence in the logic of economic governance and institutional objectives. The EU's State Aid Control (SAC) system is centered on the maintenance of free competition in the single market, emphasizing the prevention of market segmentation and distortion of competition by limiting member states' financial subsidies to specific enterprises. Its institutional logic is rooted in Article 107 of the Treaty on the Functioning of the European Union (TFEU), which requires member states to obtain the approval of the European Commission for any aid that may affect trade. In practice, there is a significant "double standard" in the EU: on the one hand, through the "Recovery and Resilience Fund" and other mechanisms to provide high subsidies to the local green industry (cumulative total of more than 65 billion euros in 2015-2024), but on the other hand, the Chinese electric car On the one hand, it provides high subsidies to local green industries through mechanisms such as the "Recovery and Resilience Fund" (more than 65

billion euros in 2015-2024), while on the other hand, it launches countervailing investigations and imposes temporary tariffs on Chinese electric vehicles, reflecting the essence of protectionism under the appearance of "prioritization of rules" [30].

In contrast, China's fair competition review system is value-oriented in terms of "overall economic security" and focuses on balancing market competition with national strategic objectives. Its institutional design not only covers ex ante review of administrative monopolies (e.g., the Fair Competition Review Regulations require policymaking authorities to conduct review and assessment at the drafting stage), but also integrates regional development disparities through the goal of a "national unified market". For example, in response to local governments' efforts to protect industries in disguise through technical standards or localization rate requirements, the Regulations explicitly prohibit "disguised restrictions on market access" and enforce rectification through the central inspection mechanism. The root cause of this difference lies in the differences in governance structures: the EU, as a federation of sovereign states, needs to coordinate the interests of member states through supranational institutions; while China, as a unitary state, can rely on the centralized and unified leadership of the Party to achieve vertical synergy of "top-level design - grass-roots level implementation" and avoid the risk of institutional fragmentation [31].

3.2 Implications for Developing Countries

The evolution path of China's fair competition review system provides a paradigm reference for developing countries to solve the "system transplantation dilemma". The traditional theory of system transplantation often ignores the adaptability of the local governance structure, for example, Latin American countries directly introduced the U.S. antitrust law, but due to the lack of judicial independence, resulting in "paper compliance". The core of China's experience lies in embedding institutional innovation into the "party-government coordination mechanism", forming a dynamic balance between political authority and market laws. The specific performance is as follows: First, the political potential to drive the reform, the central deep reform group (committee) through policy pilots to release the local innovation space, such as Zhejiang Province in 2019 to take the lead in the introduction of third-party assessment mechanism, the fair competition review from procedural compliance to the substantive effectiveness of the second is the mechanism of social co-governance, through the assessment and evaluation (review of the effectiveness of the performance of the local government performance appraisal) and public participation (the opening of the State Council), and the public participation (the State Council). Secondly, the social co-rule mechanism, through assessment and evaluation (incorporating the effectiveness of the review into the performance evaluation of local governments) and public participation (opening the State Council's "Internet+Inspection" platform), to build a diversified supervision network, and to break the motivational paradox of "self-censorship" [30]. This "embedded" system transplantation path requires developing countries to fully consider the local political and economic structure when borrowing external rules, rather than simply copying the judicial review model of the EU.

3.3 Core Qualities of Chinese Logic

First, the Party's leadership serves as the "meta-governor" of institutional change. The centralized and unified leadership of the Party ensures the stability of the direction of reform and the effectiveness of implementation. For example, the amendment of the Antimonopoly Law in 2022 to include a fair competition review system in the law is essentially a legislative process to transform the Party's strategy of "national unified market" into national will. Compared with the EU member states' games over subsidy policies, China's political system can effectively curb the short-sighted behavior of sectoral and local interest groups.

Secondly, the "practical rationality" of the path of progressive reform. China's institutional evolution follows the progressive logic of "problem identification - local pilot - system diffusion - rule of law solidification". Taking administrative monopoly regulation as an example, it relied on the Anti-Unfair Competition Law to correct individual cases in the early stage (1993-2007), and then shifted to the systematic construction of a fair competition review system in the market system after 2016, and further upgraded the rule of law through the Fair Competition Review Regulations in 2024. This "trial-and-error-adaptation" mechanism reduces the risk of reform. For example, the transformation of the regulatory rules for the digital economy from "inclusive and prudent" to "equal emphasis on regulation and development" is precisely based on the accumulation of pilot experiences in the platform economy. The accumulation of pilot experiences.

Thirdly, the "institutional reproduction" of the pilot extension mechanism. Through the mechanism of "local pilot - centralized absorption - national promotion", China has transformed regional innovations into universal rules. A typical case is the "cross-regional review and collaboration mechanism": the Chengdu-Chongqing region has explored cross-regional joint review, and by the end of 2024, it had realized 626 pieces of fair competition cross-examination and mutual evaluation of policies and measures in adjoining regions [32], and endeavored to crack the regional market barriers, and the model was later absorbed by the Regulations as follows "Encourage the establishment of cross-regional and cross-sectoral review mechanisms". This path of "grass-roots innovation - top-level integration" not only avoids the social costs of radical reforms, but also adapts to the needs of regional differentiation through institutional flexibility.

China's "Trinity" model offers an alternative to the neoliberal paradigm in the context of global institutional competition. Its core value lies in curbing the negative externalities of "local government GDP competition" through the authority of the Party, while relying on the rule of law to constrain the boundaries of government intervention; avoiding

transitional shocks through gradual reforms, and reserving space for rule updating through experimental mechanisms; and incorporating exceptions such as "national security" and "green development" into the review criteria, reflecting developing countries' concerns about national security. The inclusion of exception clauses such as "national security" and "green development" in the review criteria reflects the reasonable demands of developing countries for "policy space".

Hurwitz emphasized in his 2007 Nobel Prize for Economics acceptance speech: "If implementation is impossible or inevitably costly, then even the most appealing system can only be a utopia". In contrast, the EU's institutional design is overly reliant on judicial review and member state gaming, making it difficult to effectively harmonize the contradictions between green transformation and fair competition (e.g., the "carbon border adjustment mechanism" triggers trade backlash in developing countries); and competition policy under the U.S. federal system has led to regulatory arbitrage due to differences in interstate legislation. The uniqueness of China's proposal lies precisely in the reconstruction of the "government-market" relationship, which contributes an institutional paradigm for global economic governance that is both effective and resilient.

4 PATHS TO INSTITUTIONAL OPTIMIZATION: TOWARDS A NEW PARADIGM OF COLLABORATIVE GOVERNANCE

4.1 Upgrading the Rule of Law: Institutionalization from Policy Instruments to Legal Rules

The upgrading of the fair competition review system under the rule of law is a key path to break the dilemma of "self-censorship" and enhance the rigidity of the system. In the future, the implementation of the fair competition review should strive to achieve a threefold breakthrough: first, the legalization of the review standards, the upgrading of the existing 18 review standards into legal provisions, and the clarification of detailed rules such as "prohibiting the restriction of competition in the disguise of technical standards, qualification certification, etc.", so as to avoid the abuse of local discretionary power. Reference can be made to the EU Transparency Directive, which requires local governments to publicize the competition impact assessment reports of industrial policies. Second, the judicial remedy procedure should be improved to expand the scope of administrative litigation and allow market players to file lawsuits against policies that do not fulfill the review procedure or whose review conclusions are obviously improper. In the future, legislation should be passed to clarify the starting conditions and adjudication standards for judicial review. Thirdly, accountability should be rigidized, and local officials who intentionally circumvent the review should be held accountable and included in the scope of exit audits of leading cadres. Gradually, review violations should be linked to the promotion of officials, so as to enhance the effectiveness of the political accountability mechanism.

4.2 Digital Empowerment: Building an Intelligent Regulatory Ecosystem

Digital technology has provided a new tool for cracking the review information asymmetry and regulatory lag. Currently, local review data are scattered in the intranet systems of various departments, forming a "data island", and the practice of Jiangsu Province's online monitoring and evaluation system for fair competition review shows that the construction of a national unified review information platform needs to achieve three levels of integration: first, data collection intelligence, through API interfaces to open the market supervision, development and reform, finance and other departmental databases. First, intelligent data collection, through the API interface to market supervision, development and reform, finance and other departments to collect policy text, enterprise complaints, administrative penalties and other data. Second, risk warning modeling, development of machine learning-based monopoly identification algorithms, for example, semantic analysis of keywords such as "localization rate" and "preferential procurement" in the policy text, and prediction of the probability of violation in combination with the historical case database. Third, blockchainization of regulatory collaboration, using blockchain technology to build a cross-regional review collaboration chain to ensure that traces of policy modifications are traceable and tamper-proof.2021, Jiangsu took the lead in the country in launching a municipal-level fair competition review big data assessment system, exploring the use of the Internet, big data and other technologies to resolve conflicts.2022, in May 2022, it successfully declared a pilot project for the construction of the State Administration of Market Supervision's Fair Competition Review Informatization Project, insisting on the province's unified planning and implementation of a pilot project. In May 2022, it was successfully declared as a pilot project of the State Administration of Market Supervision's Fair Competition Review Informatization Construction, insisting on the combination of the province's unified planning and the development of local strengths, putting on-line the provincial-level Fair Competition Review Big Data Evaluation System, and pushing the municipalities to set up the evaluation system of local characteristics. In addition, the use of data special analysis of specific reviews, build the province's fair competition review monitoring center big screen, the system user can independently set the time interval, the scope of the object, the violation of the standard and many other indicators, to generate targeted statistical analysis report, to provide reference for the government at all levels.2023, Jiangsu successfully on-line fair competition review online monitoring and evaluation system version 3.0, the launch of data Kanban, Robot Little Competition Q&A, double random sampling, document review and other new functions, fair competition review work more intelligent, standardized, professional. 2023 January - August, the province monitored the stock of more than 210,000 documents, monitoring more than 2,000 new documents every day, found 241 documents at risk, and has identified and corrected 74 documents in violation.

4.3 Reconstructing Incentive Mechanisms: Cracking the Implementation Bias under GDP Orientation

The root cause of the selective implementation of the review system by local governments lies in the conflicting values of the current performance appraisal system. In the current assessment system for officials, traditional economic indicators such as GDP growth rate still dominate, while the weight of indicators reflecting the effectiveness of fair competition governance is significantly low. Reconstructing the incentive mechanism needs to start from three aspects: First, the appraisal weight reset, the review of the compliance rate, hidden barriers to clear the amount of indicators into the high-quality development of comprehensive performance evaluation, the weight of no less than 15%. Second, the financial rewards and penalties linked to the central financial transfer payments and local review of the effectiveness of the linkage, for two consecutive years the rate of violation of the standard exceeds the region to deduct 10% of the special subsidies. Thirdly, there is an innovative error-tolerance mechanism, with the establishment of a "reform risk fund" to provide transitional compensation to regions that have experienced a short-term decline in economic growth as a result of the elimination of local protection.

5 CONCLUSION: GENERATION OF INSTITUTIONAL RESILIENCE IN A SPIRAL EVOLUTION

If a country wants to cross the development trap, it has to break the stumbling block of all kinds of vested interests, and break the locking status of ineffective or even negative transitional institutional arrangements across the board through comprehensive and integrated reforms with coupling, so as to make the institutional equilibrium leap to a new more efficient and fairer and more just state. The evolutionary trajectory of China's fair competition review system profoundly interprets the compound logic of institutional change under the socialist market economy system. Its core feature is the spiral cycle of "driven by political potential - forced by market law - solidified by the rule of law": the centralized and unified leadership of the Party gives political authority to the reform through the top-level design (e.g., the Opinions on Strengthening Anti-Monopoly and Deeply Promoting the Implementation of the Fair Competition Policy, which was considered and passed by the Central Committee of Reform and Reform in 2021), and the contradictions in the process of marketization (e.g., local protectionism) are also reflected in the evolution of the system. Contradictions in the marketization process (e.g., regional market segmentation due to local protectionism) create an endogenous demand for institutional innovation, while the rule of law process of the fair competition review system upgrades stage-by-stage experiences into stable rules. This process is not a linear progression, but a reciprocal movement of "practice breakthrough-rule adjustment-practice again", for example, the policy transition of platform economy regulation from "inclusive and prudent" to "regulating and developing at the same time". For example, the policy transformation of platform economic regulation from "inclusive and prudent" to "equal emphasis on regulation and development" is the product of the dynamic balance of political decision, market feedback and rule of law constraints. This institutional resilience stems from the dialectical unity of socialism with Chinese characteristics, "effective market" and "active government", which not only avoids the trap of market fundamentalism of neoliberalism, but also transcends the path dependence of the traditional planned economy.

COMPETING INTERESTS

The authors have no relevant financial or non-financial interests to disclose.

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