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中国反垄断法律资讯：2015年7月 China Monthly Antitrust Update: July 2015

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我们致力于提供中国反垄断法最新资讯，包括法规速递、执法机关动态、行政执法、民事诉讼、中外反垄断法交流、学术研究等。提供案例解析、理论介绍、律师实务操作指南，以及原创反垄断法评论和文章，部分内容为中英文双语。欢迎您的关注。



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立法动态 Legislation

《汽车反垄断指南》草案制定工作正式启动

6月12日，国家发展改革委价格监督检查与反垄断局表示，中国正式启动《汽车业反垄断指南》（“指南”）的起草工作，指南的制定将促进反垄断执法进一步常态化、制度化。汽车业反垄断将给经营者提供更为清晰的行为指导与合理预期，促进经营者主动遵守《反垄断法》，促进汽车市场的有效竞争。同时，指南将促进执法透明度，保障被调查企业的抗辩权。

详细信息：<http://news.163.com/15/0625/01/ASTU6U2600014Q4P.html>

China Officially Initiates Drafting Antitrust Guidelines in Auto Industry

On June 12, 2015, Price Supervision and Anti-Monopoly Bureau (“PSAMB”) of National Development and Reform Commission (“NDRC”) announced that China officially initiated drafting Antitrust Guidelines in Auto Industry (the “Guidelines”) and the enactment of the Guidelines would facilitate the normalization and institutionalization of antitrust enforcement. The Guidelines would also provide business operators with clearer behavior guidance and reasonable expectation, therefore promoting business operators abiding by the Anti-monopoly Law and effective competition in auto market. Furthermore, the Guidelines will promote the transparency of antitrust enforcement and ensure the right of defense of targeted enterprises.

For details, please visit: <http://news.163.com/15/0625/01/ASTU6U2600014Q4P.html>

发改委牵头起草《滥用知识产权反垄断规制指南》

6月3日，国家发展改革委价格监督检查与反垄断局组织召开筹备会议，正式启动《滥用知识产权反垄断规制指南》的研究起草工作。《滥用知识产权反垄断规制指南》将针对与知识产权有关的垄断协议、滥用市场支配地位和经营者集中等行为，细化《反垄断法》相关条款，特别是对于何种情形可以主张豁免给出具体指引。专家表示，《滥用知识产权反垄断规制指南》的起草和颁布，对信息与通讯、医药等领域的知识产权行使行为以及产品和服务销售行为将产生实质影响。

详细信息：<http://news.sina.com.cn/c/2015-06-04/005931910732.shtml>

NDRC Leads the Drafting Work of Antitrust Regulative Guidelines for Abuse of Intellectual Property

On June 3, 2015, NDRC held a preliminary meeting, officially launching the research and drafting of *Antitrust Regulation Guidelines for Abuse of Intellectual Property* (the “Regulative Guidelines”). The Regulative Guidelines will focus on monopoly agreements, abuse of dominant market position, merger control and other conducts relating to intellectual property. Also, the Regulative Guidelines will refine the relevant provisions of Anti-monopoly Law, in particular giving guidance on the application of exemption system. Experts stated that the drafting and enactment of the Regulative Guidelines would have substantial influence on the exercise of intellectual property as well as the sales of products and services in information technology and communication industry, pharmaceutical industry and other industries.

For details, please visit: <http://news.sina.com.cn/c/2015-06-04/005931910732.shtml>

执法机构 Authorities

商务部新闻发言人沈丹阳回应中国反垄断执法情况

6月2日，商务部新闻发言人沈丹阳在商务部例行新闻发布会上表示，中国经营者集中反垄断审查没有比其他司法辖区更为苛刻或严格，商务部做出的审查决定是严格根据交易对市场竞争的影响和案件自身的特点做出的。全面的看，商务部一直是秉承依法、高效、透明、灵活的态度和立场对待反垄断审查的。随着简易案件公示制度和按季度公开审查信息的开展，经营者集中反垄断审查的执法透明度不断提高。

详细信息：<http://www.mofcom.gov.cn/article/ae/slfw/201506/20150600999310.shtml#rd>

Spokesman of MOFCOM Responds to the Situation of Anti-monopoly Law Enforcement in China

On June 2, 2015, in a regular press conference of the Ministry of Commerce ("MOFCOM"), Danyang Shen, Spokesman of MOFCOM expressed that the Antitrust review of merger control in China was not more demanding or more strict than that in other jurisdictions. Every decision made by MOFCOM was strictly based on the influence of the transaction and the nature of the case. Overall, MOFCOM has been adhering to the legal, efficient, transparent and flexible attitude and position on antitrust review. With the publicity system of streamlined cases and quarterly public review, the transparency of antitrust enforcement for merger control continues to increase.

For details, please visit:

<http://www.mofcom.gov.cn/article/ae/slfw/201506/20150600999310.shtml#rd>

商务部反垄断局副局长吴振国率队赴合肥进行案件实地调查

2015年6月3日至5日，商务部反垄断局吴振国副局长一行赴安徽省合肥市就有关经营者集中案件情况进行实地调查，召开相关企业座谈会，并深入生产一线进行考察。安徽省商务厅、合肥市商务局相关人员参加了此次实地调查。

详细信息：<http://fldj.mofcom.gov.cn/>

Deputy Director General of the AMB of MOFCOM Leads a Team to Hefei to Conduct Field Investigations

From June 3 to June 5, 2015, Zhenguo Wu, Deputy Director General of the Anti-Monopoly Bureau ("AMB") of MOFCOM, led a team to Hefei, Anhui Province to conduct field investigations, where they held seminars for relevant companies and further investigated the production line. The related officials of the Bureau of Commerce of Anhui Province and the Bureau of Commerce of Hefei participated in this field investigation.

For details, please visit: <http://fldj.mofcom.gov.cn/>

国家发改委价监与反垄断局局长张汉东解读《禁止价格欺诈行为的规定》

6月，国家发改委价监与反垄断局局长张汉东表示，修改已有的禁止价格欺诈规定势在必行。国家发展改革委去年就委托高校对明码标价、价格欺诈等相关问题进行深入研究，并形成了课题报告。本次相关规定的修改思路是确保禁止价格欺诈的总体原则不变，坚持问题导向，实行有限修改。

详细信息：<http://www.gada.org.cn/msg.php?id=1848>

Director General of the PSAMB under NDRC Interprets Regulation on Prohibiting Price Fraud

In June 2015, Handong Zhang, Director General of the PSAMB under NDRC expressed that it would be imperative to modify the existing regulations on prohibiting price fraud. He also stated that NDRC has entrusted universities to study price tag marking and price fraud in-depth since last year, thus the project reports were completed. The basic idea of the amendment is to maintain the general principle of prohibiting price fraud, adhere to problem-oriented method and make specific modifications.

For details, please visit: <http://www.gada.org.cn/msg.php?id=1848>

行政调查 Public Enforcement

国家发改委依法纠正云南省通信管理局滥用行政权力排除限制竞争行为

6月2日国家发改委网站公布，云南省通信管理局牵头组织四家电信运营商达成协议，并通过下发整改通知书等手段强制执行，限制了电信运营商的竞争能力和手段。对此，云南省通信管理局进行了整改，并停止相关做法，中国移动、电信、联通、铁通四大电信运营商的云南分公司被处以罚款，共计1318万元。早在2014年，国家发改委就指导云南省发改委对此案启动了调查。

详细信息: http://jjs.ndrc.gov.cn/gzdt/201506/t20150602_694801.html

NDRC Rectifies the Abuse of Administrative Power of Yunnan Communication Administration

On June 2, 2015, NDRC published on its website that Yunnan Communication Administration organized four telecom operators to reach price-fixing agreements and compulsorily enforced such agreements through the method of issuing rectification notice. Such agreements restrained the competitiveness and competition strategies of telecom operators. Consequently, Yunnan Communication Administration rectified and ceased such conduct. Yunnan Branches of China Mobile, China Telecom, China Union and China Railcom were fined a total of CNY 13.18 million. Earlier in 2014, NDRC guided Yunnan Development and Reform Commission to conduct investigation on this case.

For details, please visit: http://jjs.ndrc.gov.cn/gzdt/201506/t20150602_694801.html

经营者集中 Merger Control

商务部六月份公布 13 起简易案件

截至2015年6月30日，商务部六月份在其网站上公布的简易案件数量达到13起，简易案件总量达188起。

详细信息: <http://fldj.mofcom.gov.cn/article/jyzjzjyajs/?2>

MOFCOM Releases 13 Streamlined Cases in June

Up to June 30, 2015, MOFCOM released 13 streamlined cases in June on its website, with total

amount reaching 188 so far.

For details, please visit: <http://fldj.mofcom.gov.cn/article/jyzjzjyajs/?2>

学术动向 Academia

交通大学凯原法学院举办第三期反垄断青年学术沙龙

6月10日，反垄断青年学术沙龙第三期在交通大学凯原法学楼举办。沙龙主题为“行政权力与反垄断法规制”，国家发展与改革委员会价格监督检查与反垄断局副局长周智高处长与华东政法大学经济法学院讲师翟巍博士分别作了主题演讲。

详细信息: <http://news.sjtu.edu.cn/info/1010/621898.htm>

Law School of Shanghai Jiaotong University Holds The Third Antitrust Youth Academic Salon

On June 10, The 3rd Antitrust Youth Academic Salon was held in Law School of Shanghai Jiaotong University. The topic of this salon was "Administrative Power and Antitrust Regulation". Zhigao Zhou, Deputy Director of the PSAMB under NDRC and Doctor Wei Zhai, Lecturer of East China University of Political Science and Law gave keynote speeches respectively.

For details, please visit: <http://news.sjtu.edu.cn/info/1010/621898.htm>

中美纵向协议和调查技巧研讨会在深圳举办

6月15日至16日，国家工商总局与美国联邦贸易委员会、司法部在深圳共同举办中美纵向协议和调查技巧研讨会。来自全国各省、自治区、直辖市近100名工商、市场监管执法骨干代表参加了研讨会。

详细信息: http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201506/t20150625_157937.html

Sino-US Seminar on Vertical Agreements and Investigation Skills Held in Shenzhen

From June 15 to June 16, State Administration of Industry and Commerce of PRC ("SAIC"), US Federal Trade Commission ("FTC") and Ministry of Justice jointly organized Sino-US Seminar on Vertical Agreements and Investigation Skills. The seminar was attended by nearly 100 representatives from local AICs and Market Supervisions of different provinces, autonomous regions and municipalities across the country participate.

For details, please visit:

http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201506/t20150625_157937.html

第五期反垄断与反不正当竞争执法专家型人才培训班开课

五月底至六月中旬，全国工商系统第五期反垄断与反不正当竞争执法专家型人才培训班在国家工商总局行政学院开课。此次培训为期21天，重点培养反垄断和反不正当竞争执法领域擅长办理复杂疑难案件，善于解决新型和热点问题的领军人才。

详细信息:

<http://www.sasaic.cn/bos/web/framework/news/b97c1a70-b770-419d-805a-9d9c23f0674f.html>

The Fifth Anti-Monopoly and Anti-Unfair Competition Enforcement Expert Training Commences

From the end of May to June, the 5th Anti-Monopoly and Anti-Unfair Competition Enforcement Expert Training was commenced in School of Administration under SAIC. The training would last for 21 days, focusing on training the experts in the field of antitrust and anti-Unfair Competition enforcement, who are specialized in handling complex cases and resolving new and hot issues.

For details, please visit:

<http://www.sasaic.cn/bos/web/framework/news/b97c1a70-b770-419d-805a-9d9c23f0674f.html>

团队动态 Dacheng Team

何元杰律师加入大成反垄断团队

2015年7月，何元杰律师正式加入大成反垄断团队。何律师专注于反垄断及竞争法合规、垄断协议、滥用市场支配地位、合并规制以及反垄断调查。他在对外经济贸易大学先后获得法学学士和法学硕士学位，具有丰富的执业经验，已向许多行业的客户提供服务，涉及汽车、航空、化工、能源、金融、食品、基础设施、半导体、海运、科技等领域。何元杰律师的加盟将进一步提升大成律师事务所反垄断业务的实力。

Yuanjie He Joined Dacheng Antitrust Team

In July 2015, Yuanjie He officially joins Dacheng Antitrust Team. Yuanjie He advises on antitrust and competition law compliance, monopoly agreements, abuse of dominant market position, merger control and antitrust investigations. He received LLB and LLM degrees from the University of International Business and Economics. He has extensive experience in advising clients in various industries including automotive, aviation, chemical, energy, finance, food, infrastructure, semiconductor, shipping and technology. The strength of antitrust legal service of Dacheng will be further enhanced with Yuanjie joining Dacheng Law Offices.