China Monthly Antitrust Update

October 2016

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Contents

Legislation.................................................................................................................................................. 4

Hunan Government Issues “Opinions on Implementing the Fair Competition Review System during Building up the Market System”........................................................................................................ 4

Authorities................................................................................................................................................ 5

Hunan AIC Investigates and Penalizes 79 Public Utility Monopoly Cases, Refunding CNY 150m Illegal Charges.................................................................................................................................................. 5

Han Chunlin, Deputy DG of AMB under MOFCOM, Meets with Director of Basic Industries, Manufacturing and Agriculture at the Directorate General for Competition of the European Commission............................................................................................................................................................................................. 5

Official from NDRC Participates in the 43th “Annual Conference on International Antitrust Law and Policy”................................................................................................................................................................................................. 5

Lu Yanchun, Deputy DG of PSAMB under NDRC Visits Moutai........................................................................ 6

Zhang Handong, DG of PSAMB under NDRC, Leads a Delegation to Japan to Hold Bilateral Meeting on Competition Policy and Anti-Monopoly.............................................................................................................. 6

Chengdu DRC Holds Promoting Meeting on Establishing Fair Competition Review System.... 7

Han Chunlin, Deputy DG of AMB under MOFCOM, Conducts Special Investigation and Research into Implementation of Fair Competition Review in Beijing................................. 7

NDRC Initiates Pilot Programs in Several Provinces Break of Monopoly Plays the Key Role... 7

SAIC Conducts Investigation and Research into Internet Enterprises, Listening to Anti-Monopoly Report ................................................................................................................................................................................................. 8

Significant Achievement has been Made in Henan Province to Investigate and Punish Anti-Monopolistic and Anti-Competitive Conducts of Public Utilities ................................................................. 8

Public Enforcement .................................................................................................................................... 9

Jiangsu AIC Terminates Abuse of Dominance Investigation into Local Power Supply Firm .... 9

Inner Mongolia AIC Fines Chifeng Salt for Abuse of Dominant Market Position .................... 9

Sinosun Technology Fined more than CNY 5m for Dividing Payment Cipher Device Market... 9

Sunyard Fined more than CNY 4m for Dividing Payment Cipher Device Market .................. 10

Merger Control .......................................................................................................................................... 11

MOFCOM Releases 18 Streamlined Cases in September ................................................................. 11

MOFCOM Confirms Initiation of Investigation into the Suspected Lack of Notification of Didi’s Acquisition of Uber in Accordance with Anti-Monopoly Laws and Regulations .......................... 11

Academia................................................................................................................................................... 12

“Comprehensively Deepening Reform, and Establishing & Implementing Fair Competition Review System” Seminar Held in Hangzhou................................................................. 12

2016 “Globalized Competition and International Cooperation in Antitrust Enforcement” International Antitrust Symposium Held in Beijing ............................................................. 12

Zhang Handong, DG of PSAMB under NDRC Participates in the Inaugural Seminar of “Approaches to the Implementation of Fair Competition Review System” and Delivers Speech ................................................................................................................................................................................................. 13

PSAMB under NDRC and German GIZ Hold Joint International Seminar on Fair Competition Review System ................................................................................................................................................................................................. 13
Jet Deng Elected as Associate of CRESSE ................................................................. 14
Dentons Awarded “Antitrust Law Firm of the Year” by DealMakers ........................ 14
Jet Deng and Ken Dai Participate in the 2016 EverPro Antitrust Summit ............. 14
Hunan Government Issues “Opinions on Implementing the Fair Competition Review System during Building up the Market System”

On 26 August 2016, People’s Government of Hunan Province issued the “Opinions of the General Office of People’s Government of Hunan Province on Establishing the Fair Competition Review System during Building up the Market System” (the “Opinions”). The Opinions clarify general requirements, basic principles and content of fair competition review system (including the scope, method and standard of the review), stipulate sequential implementation of fair competition review system (including setting up a working mechanism, clarifying review responsibilities, clearing out stocks in order, assessing and perfecting relevant laws and regulations regularly) and put forward improvement mechanism of fair competition review system (including perfecting competition policy, improving credit mechanism, strengthening enforcement supervision, enhancing duty charging and intensifying training and publicity).  

Hunan AIC Investigates and Penalizes 79 Public Utility Monopoly Cases, Refunding CNY 150m Illegal Charges

On 27 September, Hunan Administration for Industry and Commerce (“AIC”) briefed on special rectification of public utilities all over the province. Hunan AIC initiated special rectification activities against anti-competitive or monopolistic conducts of public utilities all over the province from April to October of 2016. According to the statistics released, there have been 79 public utility anti-competitive and monopolistic cases investigated and penalized, valuing CNY 31.7722m; 32 cases closed, with penalty and disgorgement totaling CNY 2.1252m. Relevant undertakings have been requested to refund illegal charges, worthy close to CNY 150m.²

Han Chunlin, Deputy DG of AMB under MOFCOM, Meets with Director of Basic Industries, Manufacturing and Agriculture at the Directorate General for Competition of the European Commission

On 23 September, Han Chunlin, Deputy Director-General (“DG”) of Anti-Monopoly Bureau under Ministry of Commerce (“AMB under MOFCOM”) met with Paul Csiszar, Director of Basic Industries, Manufacturing and Agriculture at the Directorate General for Competition of the European Commission, Benoit Lory, EU Delegation to China, accompanying him. Both parties exchanged ideas of the current review system of concentrations, challenges faced and further/enhanced communications and cooperation in the individual enforcement.³

Official from NDRC Participates in the 43th “Annual Conference on International Antitrust Law and Policy”

From 21to23 September, Li Qing, Deputy DG of Price Supervision and Anti-Monopoly Bureau Under the National Development and Reform Commission (“PSAMB under NDRC”) was invited to participate in the 43th “Annual Conference on International Antitrust Law and Policy” (the “Conference”). The Conference was jointly held by Fordham University and

George Washington University, with the theme of “Future and Development of Asia Anti-Trust”. Attendants deliberated on hot issues for the moment, such as competition policy, anti-monopoly and intellectual property right, cartel enforcement, etc. Representatives of anti-monopoly enforcers and relevant research institutions from the US, EU, Japan, Singapore, Mexico, Chile and the others also participated in the Conference. “Today and Tomorrow of the Chinese Anti-Monopoly Enforcement” was among the panels, during which officials from the three Chinese anti-monopoly enforcers delivered keynote speeches respectively. Li Qing emphatically introduced the establishment and enforcement of the Chinese fair competition review system through three aspects, which are the significance to deepen economic structural reform, promotion of economic transformation upgrade and establishment of gradual and operational working system.4

LuYanchun, Deputy DG of PSAMB under NDRC Visits Moutai

On 21 September, a group led by Lu YanChun, Deputy DG of PSAMB under NDRC visited Kweichow Moutai Group (“Moutai”), investigating marketing policy, market service, product innovation, channel guide, consumption transformation, etc. Moutai reported on relevant work. Wu Liang Ye, Luzhou Laojiao and other famous liquor brands adjusted price of their respective featured products during the hot Mid-autumn Festival season recently, while price charged by Moutai soared at the same time. Against this background, PSAMB under NDRC’s visit to Moutai attracts much public attention for potential anti-monopoly or anti-competitive conduct.5

Zhang Handong, DG of PSAMB under NDRC, Leads a Delegation to Japan to Hold Bilateral Meeting on Competition Policy and Anti-Monopoly

From 12 to 16 September, Zhang Handong, DG of PSAMB under NDRC, led a delegation to Japan to hold bilateral meeting on competition policy and anti-monopoly. During the visit, Zhang Handong met with Takashi Yamamoto, Commissioner of Japan Fair Trade Competition Commission, among other officials. Both parties exchanged opinions on the latest development of anti-monopoly enforcement, competition policy enforcement, fair competition review system, enhanced anti-monopoly cooperation, etc.6

4 http://jjs.ndrc.gov.cn/gzdt/201609/t20160927_820017.html
5 http://www.chinamoutai.com/xinwen/2016/1699.html
6 http://jjs.ndrc.gov.cn/gzdt/201609/t20160918_818687.html
Chengdu DRC Holds Promoting Meeting on Establishing Fair Competition Review System

On 13 September, Chengdu Development and Reform Commission (“DRC”) held “Promoting Meeting on Establishing Fair Competition Review System”, aiming to earnestly implement “Opinions of the State Council on Establishing Fair Competition Review System during Building up the Market System” (GUO FA [2016] No. 34), practically raise public awareness and cognitiveness of the establishment of fair competition review system, accelerate the establishment and implementation of fair competition review system in Chengdu, so as to get governments at city and county levels and relevant subordinate departments ready before to carry out fair competition review during the formulation of policies and measures since 2017. The meeting also invited Li Qing, Deputy DG of PSAMB under NDRC to deliver special training report on fair competition review system of China.7

Han Chunlin, Deputy DG of AMB under MOFCOM, Conducts Special Investigation and Research into Implementation of Fair Competition Review in Beijing

On 7 September, Han Chunlin, Deputy DG of AMB under MOFCOM, conducted special investigation into the implementation of fair competition review in Beijing.8 From 31 August to 2 September, Han Chunlin, Deputy DG of AMB under MOFCOM, conducted investigation and research into implementation of fair competition review system in Zhengzhou and Taiyuan.9

NDRC Initiates Pilot Programs in Several Provinces Break of Monopoly Plays the Key Role

On 7 September, NDRC authorized Hubei, Sichuan, Liaoning, Shaanxi, Anhui, Henan, Shandong Provinces and Xinjiang Uygur Autonomous Region to initiate pilot programs of comprehensive electric power system reform. It was on 6 September that NDRC agreed with 5 authorities, including but not limited to Beijing, Fujian, Gansu, Heilongjiang, Hainan to initiate pilot programs of electric power reform. The current round reform aims to break monopoly in the electric power system, promote openness of electric sales, empower consumers more freedom to purchase electricity and provide more choices to the public,

7 http://www.cddrc.gov.cn/detail.action?id=849360
which is an essential reflection of safeguarding people’s livelihood and people orientation.  

SAIC Conducts Investigation and Research into Internet Enterprises, Listening to Anti-Monopoly Report

On 2 September, Zhang Mao, Secretary of Party Committee and DG of State Administration for Industry and Commerce ("SAIC") visited Qihu 360 Software Co. Limited ("Qihu") and 58.com ("58") to investigate into development of internet industry, while Gan Lin, Deputy DG of SAIC, also participated in it. Zhang Mao visited galleries and characteristic working area of Qihu, as well as working space and production line of 58, during which also communicating with management of both companies. Qihu introduced the latest development after it being listing at home, application of bid data and industry & commerce cooperation projects, as well as application of Interim Measures for the Administration of Internet Advertising and implementation of anti-monopoly law and anti-unfair competition law. 58 presented management condition of the company and measures taken to improve the quality of services and consumer protection.

Significant Achievement has been Made in Henan Province to Investigate and Punish Anti-Monopolistic and Anti-Competitive Conducts of Public Utilities

Recently, Henan AIC published the enforcement results against prominent anti-competitive and monopolistic conducts of public utilities through the provincial industry and commerce system. From May to the middle of August 2016, 17 provincially administered municipalities and 5 directly administered counties had broken the record of zero special enforcement actions. Branches of Henan AIC all over the province had registered 1 case, obtained clues for 3 suspected violations in accordance with Anti-Monopoly Law of the People’s Republic of China (the “AML”) and investigated and penalized 113 public utility cases, closed 73 cases, totaling RMB 1.2641m, according to Anti-Unfair Competition Law of the People’s Republic of China (“AUCL”) and the others.

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Public Enforcement

Jiangsu AIC Terminates Abuse of Dominance Investigation into Local Power Supply Firm

On 29 September, SAIC released 2016 Competition Enforcement Notice No. 8, declaring to terminate the investigation into abuse of dominance through imposing unreasonable trading conditions by Hai’an County Power Supply (“Hai’an”). Jiangsu AIC found that Hai’an forced non-residential customers to pre-pay a certain amount of fees as deposits and stopped supplying to customers who refused to comply, constituting abuse of dominant market position. For the active coordination and timely rectification from Hai’an, Jiangsu AIC decided to suspend the investigation in September 2014. Upon application, Jiangsu AIC determined Hai’an had taken corrective measures in accordance with relevant laws and regulations, thus terminating the investigation.13

Inner Mongolia AIC Fines Chifeng Salt for Abuse of Dominant Market Position

On 29 September, SAIC released 2016 Competition Enforcement Notice No. 7, declaring to fine Chifeng Salt Industry Company (“Chifeng Salt”) over alleged abuse of dominance. After investigation, Inner Mongolia AIC found that Chifeng Salt engaged in discriminatory treatment through refusal to deal in Chifeng District during the pickle season, harming legitimate rights of the broad resident consumers and bringing side effect to fair competition of the production and sales market of edible salt. Considering the positive cooperation of Chifeng Salt, Inner Mongolia AIC determined to fine it CNY 2,988,358 in total, including disgorgement of CNY 1,940,544, and 2% of annual sales in the previous year in the relevant market, which is CNY 1,047,814.14

Sinosun Technology Fined more than CNY 5m for Dividing Payment Cipher Device Market

On 22 September, Shenzhen Sinosun Technology Joint Stock Limited Company made an announcement, declaring that its wholly-owned subsidiary, Beijing Sinosun Technology

Limited Liability Company (“Beijing Sinosun”), received Administrative Penalty Decision made by Anhui AIC on 21 September for allegedly dividing the market of payment cipher device through monopolistic agreement in Anhui Province. Beijing Sinosun was fined CNY 5,638,761.66 in total, including 8% of its sales in Anhui Province in 2014 (CNY 258,502.50) and CNY 5,380,259 in disgorgement.\(^\text{15}\)

**Sunyard Fined more than CNY 4m for Dividing Payment Cipher Device Market**

On 20 September, Sunyard System Engineering (“Sunyard”) made an announcement, declaring the receipt of Administrative Penalty Decision made by Anhui AIC for allegedly dividing the market of payment cipher device through a monopoly agreement in Anhui Province. Sunyard was fined CNY 4,189,900 in total, including 8% of its sales in Anhui Province in 2014 (CNY 76,200) and CNY 4,113,700 in disgorgement.\(^\text{16}\)

\(^{15}\) [http://disclosure.szse.cn/finalpage/2016-09-22/1202719865.PDF](http://disclosure.szse.cn/finalpage/2016-09-22/1202719865.PDF)

MOFCOM Releases 18 Streamlined Cases in September

Up to 30 September 2016, MOFCOM has released 18 streamlined cases in September on its website, with total amount reaching 524 so far.\(^\text{17}\)

**MOFCOM Confirms Initiation of Investigation into the Suspected Lack of Notification of Didi’s Acquisition of Uber in Accordance with Anti-Monopoly Laws and Regulations**

On 2 September, MOFCOM held routine press conference, during which Shen Danyang, the press spokesman, responded to public concern of the suspected lack of notification of Didi Taxi’s acquisition of Uber China in accordance with anti-monopoly laws and regulations. Shen said that MOFCOM was investigating the case according to AML, *Provisions of the State Council on the Threshold for the Notification of Concentrations of Business Operators, Measures for the Declaration of the Concentrations of Business Operators and Interim Measures for Investigation and Handling of Concentrations of Business Operators Not Notified* in Accordance with the Law, etc. Until then, MOFCOM had scheduled two meetings with Didi, requiring it to illustrate relevant situations and reasons for lack of notification, as well as to deliver files and documents in response to questions raised by MOFCOM. MOFCOM also communicated with other ministries to obtain a better understanding of the operation pattern of online ride-hailing service and competition within relevant market. MOFCOM expressed that it would continue to advance the investigation of this case so as to protect competition of relevant market, consumer rights and interests and the public interests.\(^\text{18}\)

\(^{17}\) [http://fldj.mofcom.gov.cn/article/jyzjyajgs/](http://fldj.mofcom.gov.cn/article/jyzjyajgs/)

“Comprehensively Deepening Reform, and Establishing & Implementing Fair Competition Review System” Seminar Held in Hangzhou

On 27 September, “Comprehensively Deepening Reform, and Establishing & Implementing Fair Competition Review System” Seminar cosponsored by Zhejiang Sci—Tech University and Law Institute of Zhejiang Province, organized by Competition Law Board under Law Institute of Zhejiang Province and co-organized by Zhejiang Golden Express Law Firm respectively was successfully held in Hangzhou. Li Qing (Deputy DG of PSAMB under NDRC), Zhao Guobin (DG of a Division from Anti-Monopoly and Anti-Unfair Competition Enforcement Bureau of SAIC) and the others, totaling more than 80 academic and practical anti-monopoly professionals, participated in the seminar. Acting as the only representative of lawyers, Ken Dai, Partner of Dentons China Competition and Antitrust Team delivered a keynote speech “Vigorously Promoting the Implementation of Fair Competition Review System – from Perspective of Lawyers”. Attendants collaborated on several topics, including but not limited to “Competition Policy and Fair Competition Review System”, “Basic Theory of Fair Competition Review System”, “Fair Competition Review System of China”, “Implementation of Fair Competition Review System”, and communicated with each other.

2016 “Globalized Competition and International Cooperation in Antitrust Enforcement” International Antitrust Symposium Held in Beijing

From 26 to 27 September, the 2016 “Globalized Competition and International Cooperation in Antitrust Enforcement” International Antitrust Symposium was jointly held by United Nations Conference on Trade and Development and China University of Political Science and Law in Beijing. Leaders from competition authorities of China and EU, scholars from universities and colleges, in-house counsels, lawyers from both domestic and overseas law firms, economists gathered together, communicated and probed into anti-monopoly legislative development and cutting-edge issues in anti-monopoly area. Topics of this seminar included “Comparative Approaches Toward Administrative Monopolies”, “Leniency and Cartel Settlements”, “The ‘Object’ vs ‘Effect’ Controversy with regard to Horizontal Agreements”, “Resale Price Maintenance: Is The Global Trend Toward ‘Rule Of Reason’ Analysis Justified?”, “Access to Standard Essential Patents and on FRAND terms”, “Standard-setting and Patent Hold-up”, “Antitrust and the Internet”, etc. jet
Deng, senior partner from Dentons China and co-chair of the Competition and Antitrust Team delivered a speech on horizontal monopoly agreement and controversy between “object” and “effect” analysis.

**Zhang Handong, DG of PSAMB under NDRC Participates in the Inaugural Seminar of “Approaches to the Implementation of Fair Competition Review System” and Delivers Speech**

Recently, the Academy of Macroeconomic Research, an affiliated division under NDRC, along with the UK Cross-Government Prosperity Fund held an inaugural seminar for the program entitled “Approaches to the Implementation of Fair Competition Review System”. Zhang Handong, DG of PSAMB under NDRC was invited and delivered a speech. The program would help NDRC learn from advanced international experiences and provide more operational advice to the thorough implementation of Chinese fair competition review system. The program will last for one year since the subscription. Acting as the leading department from China, NDRC is ready to keep a close eye on the latest development of the program, provide materials, suggestions and recommendations when necessary to improve the quality of the program.¹⁹

**PSAMB under NDRC and German GIZ Hold Joint International Seminar on Fair Competition Review System**

On 7 September, PSAMB under NDRC and German Deutsche Gesellschaft für Internationale Zusammenarbeit (“GIZ”) jointly held an international seminar on the fair competition review system in Beijing. Zhang Handong, DG of PSAMB under NDRC, attended the seminar and delivered speech on the background and content of the State Council’s “Opinions of the State Council on Establishing Fair Competition Review System during Building up the Market System”. Li Qing, Deputy DG of PSAMB under NDRC presided the seminar. The seminar was also attended by foreign officials, including Sean Ennis, head of the competition division of the Organization for Economic Co-operation and Development; Laszlo Gyerko and Eleodor Florentina, competition councilors at the Competition Council of Romania and Marco Haase, a legal project manager at GIZ.²⁰

Jet Deng Elected as Associate of CRESSE

Recently, Jet Deng, Partner from Dentons China Antitrust Team, was elected as one of the Associates of Competition and Regulation European Summer School and Conference (“CRESSE”). As the only associate from China, the election of Jet highlights the recognition of his rich experience in anti-monopoly enforcement by the international academic and practical circles. CRESSE was initiated in 2005, managed and organized by Athens University of Economic and Business. CRESSE consists of prestigious international academics, professionals and public officials. Two of the objectives of CRESSE are to organize annual Conference in which the latest research in the areas of Competition and Regulation is presented and discussed, and give high quality training to international visiting scholars and practitioners. Besides, CRESSE also keeps close cooperation with competition authorities all over the world, and provides research fruits for competition policy formulation.\(^{21}\)

Dentons Awarded “Antitrust Law Firm of the Year” by DealMakers

Dentons was awarded as Antitrust Law Firm of the Year 2016 by DealMakers Monthly and won 2016 DealMakers Global Awards recently, which is another significant achievement made by Dentons China Antitrust Team. After a thorough poll and investigation among readers and legal service industry, DealMakers Monthly chose Dentons China Antitrust Team as the one of the most valuable ones, reflecting its professional performance and reputation among clients. DealMakers Monthly is a famous UK magazine, whoawards excellent teams from industries of law, finance, tax and the others, encouraging relevant professionals to move steps closer to perfection every year.

Jet Deng and Ken Dai Participate in the 2016 EverPro Antitrust Summit

On 20 September, Jet Deng and Ken Dai, partners from Dentons China Antitrust Team, participated in the 2016 EverPro Antitrust Summit (the “Summit”). During the Summit, Jet Deng delivered a keynote speech on “To Make What Complex Simple: Anti-Monopoly Compliance Issues within the Distribution Channel”. Ken Dai presided over the panel of

“Brainstorm of In-House: How to Establish Long-Term Internal Anti-Monopoly Compliance System and Policy”. The participants also included officials from enforcement authorities, scholars from universities and in-house counsels, totaling more than 110.22

22 https://mp.weixin.qq.com/s?__biz=MzAxMTI5MTUxOA==&mid=2657709360&idx=1&sn=841358b2f218fda0e078a9ca9bf071b7&mpshare=1&scene=1&srcid=0929v6Zi9CgCuEL8YeVDvWWQ&pass_ticket=5Rlf5vR5W5Xewx63k5QbsV7q80wpAYWyb52aAKM687dcV9ikXQjUg5ol9JreGkBP#rd
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Name: Antitrust Practice Review  
ID: Antitrust_Review  
This Public Account focus on updates of China’s antitrust law, including legislation, authorities, public enforcement, merger control, private litigation, academia, etc. Case study, theory introduction, practice guidance, original antitrust law reviews and articles are also contained. Welcome to join us.

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