Enforcement

- **China**
  - MOFCOM unconditionally clears 62 concentrations of undertakings in the first quarter of 2015
  - Overview of MOFCOM’s Simple Cases
  - MOFCOM issues year-end work report and directives
  - SAIC publishes the decision to terminate investigation against Beijing SHANKAI Sports Development Co., Ltd
  - SAIC fines Hainan Dongfang Water Company RMB 631729.54 for suspected monopolistic conducts
  - Zhang Mao: SAIC launches 47 anti-monopoly investigations
  - NDRC fines Qualcomm RMB 6.088 billion for abuse of dominate market position
  - NDRC admonishes the People’s Government of Shandong Province to correct the conducts of the Department of Transport for violating the Anti-monopoly Law

- **United States**
  - Ocean shipping executive pleads guilty to price fixing on ocean shipping services for cars and trucks
  - DOJ will not challenge standards-setting-organization’s proposal to update patent policy
  - DOJ requires divestitures in Verso Paper Corp.’s acquisition of Newpage Holdings Inc.
  - U.S. District Court rules that American Express violated Antitrust Laws
  - FTC conditionally clears Sun Pharmaceutical’s proposed acquisition of Ranbaxy
  - FTC conditionally clears Novartis AG’s proposed acquisition of GlaxoSmithKline’s Oncology Drugs
  - FTC proposes to study merger remedies

- **European Union**
  - EC opens in-depth investigation into joint venture for online music licensing between collecting societies PRSfM, STIM and GEMA
  - EC opens in-depth investigation into proposed acquisition of rotating equipment manufacturer Dresser-Rand by Siemens
  - EC opens in-depth investigation into General Electric’s proposed acquisition of Alstom’s energy businesses
  - EC fines five envelope producers over € 19.4 million in cartel settlement
  - EC conditionally clears the acquisition of Lafarge by Holcim
  - EC conditionally clears the acquisition of aviation fuel supplier Statoil Fuel & Retail Aviation by rival BP
  - EC conditionally clears both GSK’s acquisition of Novartis’ vaccines business and a consumer healthcare joint venture between GSK and Novartis
  - EC conditionally clears the acquisition of GSK’s oncology business by Novartis
  - EC conditionally clears the acquisition of certain businesses of Abbott Laboratories by Mylan
  - EC announces the launch of market tests in investigations in online hotel booking sector by French, Swedish and Italian competition authorities

- **Australia**
  - ACCC takes action against electrical cable suppliers for alleged cartel
  - ACCC institutes proceedings against Calvary Hospitals

- **Korea**
  - KFTC imposes penalty on Hanhwa Corporation and Goryeo Nobel Corporation for suspected
monopolistic conducts
✧ KFTC imposes penalty on four construction firms for suspected bid rigging

• Japan
✧ JFTC advises on Toei Animation Co., Ltd
✧ JFTC advises on Fukui Agriculture Cooperative Economic Federation

• Brazil
✧ CADE signs agreement in cartel investigation in the market of medical and hospital services provision
✧ CADE conditionally clears ALL/Rumo deal
✧ CADE opens investigation in automotive components market

• Russia
✧ FAS in the Altai Region investigates a “milk collusion”
✧ FAS opens an investigation against Google

• India
✧ Court dismisses BMW and Hyundai petitions against CCI

• South Africa
✧ SACC blocks a merger between casino companies

Legislation

• China
✧ MOFCOM issues Guiding Opinions on Regulating Notification Name for Cases of concentration of undertakings
✧ SAIC publishes the Rules on Prohibition of Abusing Intellectual Property Right to Eliminate or Restrict Competition

• United States
✧ FTC announces new thresholds for Clayton Act antitrust reviews for 2015

• European Union
✧ EC invites comments on proposed changes to antitrust procedures to align with directive on damages actions
✧ EC consults on draft guidelines on joint selling of olive oil, beef and veal livestock and arable crops

• Japan
✧ JFTC consults on the amendment to the Anti-monopoly Law Guide Regarding Circulating Trading Practice

Zhong Lun in the News
✧ Zhong Lun Partner Zhang Baisha invited to speak at the 10th ALC Corporate Compliance Forum
✧ Zhong Lun Partner Mr. Zhang Baisha invited to give a lecture on “AML & Competition Assessment of Governmental Regulation” for Guangzhou Legislation Bureau
Enforcement

China

 Bulldozer

 MOFCOM unconditionally clears 62 concentrations of undertakings in the first quarter of 2015

On April 3, 2015, Ministry of Commerce of the People’s Republic of China (“MOFCOM”) issued a case review list setting out the 62 concentrations of undertakings unconditionally cleared in the first quarter of 2015. **>>Read More Back**

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 Overview of MOFCOM’s Simple Cases

MOFCOM published 136 Simple Cases Announcement Form of Concentration of Undertakings as of March 31, 2015 on its Anti-monopoly Bureau’s official website. Based on MOFCOM’s Unconditionally Cleared Cases List, we note that the review period of Simple Cases is becoming shorter than before. The shortest review period for a simple case is 15 days, in the case of the notification of establishment of a new joint venture by the Boeing Company and Singapore Airlines Engineering Company Limited. **>>Read More Back**

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 MOFCOM issues year-end work report and directives

On January 29, 2015, MOFCOM issued year-end work report of commerce, which mainly stated that in the field of anti-monopoly, MOFCOM had launched anti-monopoly review of concentration of undertakings and carried out enforcement activities in accordance with law. Moreover, the enforcement efficiency and transparency had also been improved. In addition, MOFCOM had made good progress in protecting fair competition order and consumer interests.

The main content of the work report includes:

- Coordinate and develop the function of the office of Anti-monopoly Committee of the State Council; in 2014, the Anti-monopoly Bureau completed the change of the committee, and held the first plenary meeting of the committee. To address the public’s concern on enforcement of anti-monopoly law, Anti-monopoly Bureau coordinated with three anti-monopoly enforcement authorities on holding press conference and the expert analysis meeting, etc., in order to answer outside questions.

- Effectively implementing anti-monopoly enforcement work; in 2014, the Anti-monopoly Bureau received 262 notification cases of, cleared 245 cases, respectively achieving 17% and 18% year-on-year growth rate, both the highest on record since the implementing of Anti-monopoly Law. In addition, the Anti-monopoly Bureau strengthened its efforts of investigating failure-to-file cases and supervision of the enforcement of the conditional cases.

- Focus on the key cases and improve the quality of case review; in 2014, the Anti-monopoly Bureau cleared 240 mergers and 4 conditional mergers and prohibited 1 merger.

- Focus on legislation and further regulate enforcement process; in 2014, the Anti-monopoly Bureau stipulated the regulations of Simple Case, promulgated and implemented the Provisional Rules on Criteria of Concentration of Undertakings Qualifying for Simplified Notification Procedure, the Guiding Opinions on Notification of Concentration of Undertakings for Simple Cases (for trial implementation), and amended the Guiding Opinions on Notification of

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Concentration of Undertakings. In addition, MOFCOM published the Rules on Imposing Restrictive Conditions on Concentration of Undertakings (For Trial Implementation).

- Develop the notification software and set up review system of case classification; The Anti-monopoly Bureau developed notification software, and set up review system of case classification. Simple Cases were cleared generally in preliminary review phase; the review process of the Non-simple Cases can be accelerated further.

- Publish case information and improve enforcement transparency; as of December 31, 2014, the Anti-monopoly Bureau issued 961 cases and 79 Simple Case Announcement Forms, as well as provided consultations and advices to around 80 companies.

- Conduct international exchanges and cooperation, promote fair competition environment; the Anti-monopoly Bureau promoted international cooperation of competition enforcement, signed the memorandum of understanding of anti-monopoly cooperation with Russia, Australia and Kenya, as well as attended the free trade agreement negotiations on competition issues.

SAIC publishes the decision to terminate investigation against Beijing SHANKAI Sports Development Co., Ltd


Considering that SHANKAI had fulfilled its commitment within the regulation time, and didn’t fall into any circumstances that would trigger new investigation, SAIC decided to terminate anti-monopoly investigation against SHANKAI on December 24, 2014.

SAIC fines Hainan Dongfang Water Company RMB 631729.54 for suspected monopolistic conducts

On February 12, 2015, SAIC announced on its official website its administrative sanction against Hainan Dongfang Water Company (“the party”) for suspended monopolistic conducts. In January, 2015, Hainan Administration of Industry and Commerce (“HNAIC”) issued its administrative sanction, and required the party to cease the illegal conducts, and refund the deposit of the consumers, confiscated its unlawful income (RMB 38521.48) and imposed a fine of RMB 593208.06 (2% of the revenue of the preceding year).

On April 23, 2014, HNAIC received case clues from Dongfang Municipality administration of Industry and Commerce. It is found that the party abused market dominate position, such as imposing unreasonable conditions in city public water supply services, and taking a certain sum of the deposit of consumers from new consumers.
On July 25, 2014, as authorized by SAIC, HNAIC conducted anti-monopoly investigation against suspected monopolistic conducts. Upon investigation, HNAIC found the party violated the Article 17 of Anti-monopoly Law, by abusing its dominant market position in the city public water supply services market and tied products or imposed any other unreasonable additional transaction terms in the course of a transaction without justifiable causes. >>Read More Back

Zhang Mao: SAIC launches 47 anti-monopoly investigations

On March 9, Zhang Mao, SAIC’s director general, said SAIC had launched 47 anti-monopoly investigations and cleared 21 cases in the Third Session of the Twelfth National People’s Congress.

As a member of Anti-monopoly Committee of the State Council, SAIC is responsible for investigating and handling monopolistic conducts, such as the abuses of market dominant position in order to eliminate or restrict competition. >>Read More Back

NDRC fines Qualcomm RMB 6.088 billion for abuse of dominate market position

On March 2, 2015, National Development and Reform Commission (“NDRC”) announced on its official website its decision of administrative sanction against Qualcomm’s abuse of dominate market positions. Upon investigation, NDRC required Qualcomm to cease the relevant illegal conducts, and imposed a fine of RMB 6.088 billion (8% of Qualcomm’s Chinese sales in 2013).

In November, 2013, NDRC conducted anti-monopoly investigation against Qualcomm’s monopolistic conducts in CDMA, WCDMA and LTE wireless communication standard essential patent (“wireless SEP”) licensing market and the CDMA, WCDMA and LTE baseband chip (“baseband chip”) market.

Upon investigation, NDRC found that Qualcomm held dominant market position in the wireless SEP licensing market and baseband chip market, and abused dominant market position, including (1) in the wireless SEP licensing market, Qualcomm charged unfairly excessive patent royalties (such as charging patent royalties for expired patents and demanding that licensee cross-license their patents to Qualcomm for free), and tying non-wireless-SEPs license without justifiable causes. (2) In baseband chip sales, Qualcomm imposed unreasonable terms.

NDRC’s sanction decisions include:

• In licensing wireless SEPs to wireless communication device manufacturers within People’s Republic of China, Qualcomm shall provide the licensees with a list of patents, and shall not charge royalties for expired patents.
• In licensing its wireless SEPs to wireless communication device manufacturers within People’s Republic of China, Qualcomm shall not, against a licensee’s will, require such licensee to grant cross-license of its non-wireless-SEPs; Qualcomm shall not coerce a licensee to grant cross-license of its relevant patents to Qualcomm without paying reasonable consideration.
• For the wireless communication devices sold for use within People’s Republic of China, Qualcomm shall not use the full wholesale net selling price as the base to calculate royalties for license of wireless SEPs while insisting on a relatively high royalty rate.
• In licensing wireless SEPs to wireless communication device manufacturers
within People’s Republic of China, Qualcomm shall not tie the license to non-wireless-SEPs without justifiable causes.

- Qualcomm shall not premise its selling of baseband chips to wireless communication device manufacturers within People’s Republic of China on the potential licensee’s acceptance of unreasonable conditions including charging for expired patents, free cross-license of patents, and tying license to non-wireless-SEPs without justifiable causes; Qualcomm shall not condition its supply of baseband chips on non-challenge of the patent licensing agreement.

- Upon verification, Qualcomm’s annual turnover in 2013 within People’s Republic of China was RMB76.102 billion, and NDRC assessed a fine on Qualcomm at the amount of RMB 6.088 billion, which equals 8% of its annual turnover within People’s Republic of China in 2013. >>Read More Back

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❖ NDRC admonishes the People’s Government of Shandong Province to correct the conducts of the Department of Transport for violating the Anti-monopoly Law

On March 27, 2015, NDRC announced on its official website the decision of admonishing the People’s Government of Shandong Province to correct the conducts of the Department of Transport, which abused its administrative power to eliminate or restrict competition in constructing and operating the public monitoring platform of dynamic information of road transport vehicles.

Upon investigation, it is found that since 2011, per stipulation by the Department of Transport, “two passenger and one hazardous” vehicles should be connected to the provincial technological service platform (Shandong Jiutong Technological Co., Ltd), and heavy-duty trucks and semi-trailer towing vehicles should be connected to a provincial BeiDou dynamic information platform. In addition, vehicle satellite positioning terminal should pass unified testing organized by Jiutong, moreover, the Department of Transport also published the highest price of vehicle satellite positioning terminals at the 2012 bid-winning price in BeiDou demo projects.

NDRC said, the above conducts of the Department of Transport violated the Articles 8, 32, 37 of the Anti-monopoly Law, eliminated and restricted competition in the vehicle monitoring platform and the vehicle terminal market, deprived the free choice power of road transportation firms in the monitoring platform and vehicle terminal market, improved unreasonably platform service fees and the sales of vehicle terminal products, and increased operating cost of road transport firms. >>Read More Back

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United States

❖ Ocean shipping executive pleads guilty to price fixing on ocean shipping services for cars and trucks

On February 6, 2015, Department of Justice (“DOJ”) announced that a former executive of Japan-based Kawasaki Kisen Kaisha Ltd. (“K-Line”) pleaded guilty and was sentenced to 14 months in a U.S. prison for his involvement in a conspiracy to fix prices, allocate customers and rig bids of international ocean shipping services for roll-on, roll-off cargo, such as cars and trucks, to and from the United States and elsewhere.

According to the one-count felony charge filed in U.S. District Court for the District of Maryland in Baltimore on Dec. 29, 2014, Takashi Yamaguchi, who was a general manager and executive officer in K-Line’s car carrier division, conspired to allocate
customers and routes, rig bids and fix prices for the sale of international ocean shipments of roll-on, roll-off cargo to and from the United States and elsewhere, including the Port of Baltimore. Yamaguchi participated in the conspiracy from at least as early as July 2006 until at least April 2010. >>Read More Back

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✧ **DOJ will not challenge standards-setting-organization’s proposal to update patent policy**

On February 2, 2015, DOJ announced that it would not challenge a proposal by the Institute of Electrical and Electronics Engineers, Inc. (“IEEE”) to update the IEEE Standards Association’s (“IEEE-SA”) patent policy. That policy governs the incorporation of patented technology in IEEE standards and explains the terms under which holders of patents essential to IEEE standards commit to make licenses available for use in implementing IEEE standards.

The department’s position was stated in a business review letter to counsel for IEEE and IEEE-SA from Renata B. Hesse, Acting Assistant Attorney General for the Antitrust Division for this matter.>>Read More Back

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✧ **DOJ requires divestitures in Verso Paper Corp.’s acquisition of Newpage Holdings Inc.**

On December 31, 2014, DOJ announced that it would require Verso Paper Corp. (“Verso”) and NewPage Holdings Inc. (“NewPage”) to divest two paper mills, in order for Verso to proceed with its acquisition of NewPage. Without this divestiture, DOJ said, the transaction would have risked higher prices in the United States and Canada for papers used for labels, magazines and catalogues.

The Antitrust Division filed a civil antitrust lawsuit in the U.S. District Court for the District of Columbia to block the proposed acquisition. At the same time, the division filed a proposed settlement that, if approved by the court, would resolve the competitive concerns alleged in the lawsuit. >>Read More Back

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✧ **U.S. District Court rules that American Express violated Antitrust Laws**

On February 19, 2015, Attorney General Eric Holder praised the decision by a judge in the United States District Court in the Eastern District of New York who found in favor of the Justice Department’s lawsuit claiming that American Express’ rules for merchants violate antitrust laws.

“Today’s decision is a triumph for fair competition and for American consumers,” said Attorney General Holder. “By recognizing that American Express’s rules harm competition, the court vindicates the promise of robust marketplaces that is enshrined in our antitrust laws. I salute the hardworking men and women who led the lengthy investigation and trial with uncommon skill and unwavering dedication. With this achievement, we are sending an unambiguous message that DOJ is prepared to litigate any case, no matter how complex, in its pursuit of justice and protection for the American people.” >>Read More Back

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● **FTC conditionally clears Sun Pharmaceutical’s proposed acquisition of Ranbaxy**

On January 30, 2015, Pharmaceutical companies Sun Pharmaceutical Industries Ltd. and Ranbaxy Laboratories Ltd. agreed to divest Ranbaxy’s interests in generic minocycline tablets in order to settle Federal Trade Commission (“FTC”) charges that Sun’s $4 billion proposed acquisition of Ranbaxy would likely be anticompetitive. Torrent Pharmaceuticals Ltd., a global drug company based in India that markets generic drugs in the United States, will acquire the divested assets.

Under the proposed settlement, Sun and Ranbaxy must also sell Ranbaxy’s generic minocycline capsule assets to Torrent, to enable Torrent to achieve regulatory approval for a change in ingredient suppliers for its minocycline tablets as quickly as Ranbaxy would have been able to do in the absence of the deal. In addition, Sun and Ranbaxy must supply generic minocycline tablets and capsules to Torrent until the company establishes its own manufacturing infrastructure. >>Read More Back

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● **FTC conditionally clears Novartis AG’s proposed acquisition of GlaxoSmithKline’s Oncology Drugs**

On February 23, 2015, Global pharmaceutical company Novartis AG had agreed to divest all assets related to its BRAF and MEK inhibitor drugs, currently in development, to Boulder, Colorado-based Array BioPharma to settle charges that Novartis’s $16 billion acquisition of GlaxoSmithKline’s portfolio of cancer-treatment drugs would likely be anticompetitive.

Physicians use BRAF and MEK inhibitors separately, and increasingly in combination, to treat melanoma. Both products are also being developed to treat a variety of other cancers. According to the complaint, the Switzerland-based Novartis and the London-based GSK are two of a small number of companies with either a BRAF or MEK inhibitor currently on the market or in development, and two of only three companies marketing or developing a BRAF/MEK combination product to treat melanoma. If the acquisition goes forward as proposed, Novartis would likely delay or terminate development of both its BRAF and MEK inhibitors, as well as the combination product. >>Read More Back

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● **FTC proposes to study merger remedies**

On January 9, 2015, FTC is seeking public comments on a proposal to study the effectiveness of the Commission’s orders in merger cases where it required a divestiture or other remedy. The study would update and expand on the divestiture study the FTC issued in 1999, and should provide information on whether the orders met their remedial goals.

Each year, FTC enforces the antitrust laws by challenging proposed or consummated mergers that it believes would be anticompetitive. Most of these challenges are resolved through a consent order, requiring the companies to divest certain assets and take other action to remedy the anticompetitive effects. >>Read More Back

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**European Union**

● **EC opens in-depth investigation into joint venture for online music licensing between collecting societies PRSfM, STIM and GEMA**

On January 14, 2015, EC had opened an in-depth investigation to assess whether the
proposed creation of a joint venture between three collective rights management organisations (CMOs) in the online licensing of musical works was in line with the EU Merger Regulation.

The CMOs contributing to the joint venture are PRSfM of the UK, STIM of Sweden and GEMA of Germany. CMOs manage the copyrights of authors, performers and writers of musical works. They also grant licences on their behalf and redistribute the royalties collected from the exploitation of their copyrights.

The Commission's preliminary investigation indicated that the combination of the music repertoires currently controlled by each of PRSfM, STIM and GEMA could result in higher prices and worsened commercial conditions for digital service providers (DSPs) in the EEA. This could lead, ultimately, to higher prices and less choice for European consumers of digital music. DSPs provide online services to final customers, such as music downloading or streaming and to operate on the market they need licences delivered by CMOs.

Moreover, the Commission had concerns that the transaction may reduce competition in the EEA for certain copyright administration services since it would reduce the number of meaningful market players from four to two. >>Read More Back

vasive investigation into proposed acquisition of rotating equipment manufacturer Dresser-Rand by Siemens

On February 13, 2015, the Commission had opened an in-depth investigation to assess whether the proposed acquisition of rotating equipment manufacturer Dresser-Rand of the US by Siemens of Germany was in line with the EU Merger Regulation. Both companies supply turbo compressors as well as the engines which drive these compressors ("drivers"). The combination of a turbo compressor with a driver was called a turbo compressor train. For turbo compressor trains driven by aero-derivative gas turbines, the Commission had concerns that the proposed transaction may reduce competition for both components, namely turbo compressors and drivers, as well as for turbo compressor trains. The Commission's preliminary investigation also found possible competition concerns in the market for small steam turbines of less than 5 MW. >>Read More Back

vasive investigation into General Electric's proposed acquisition of Alstom's energy businesses

On February 23, 2015, EC had opened an in-depth investigation to assess whether General Electric's ("GE") proposed acquisition of the Thermal Power, Renewable Power & Grid businesses of Alstom was in line with the EU Merger Regulation.

The Commission’s preliminary investigation indicated potential competition concerns in the market for heavy-duty gas turbines which are mainly used in gas-fired power plants. The transaction would bring together the activities of GE, the world's largest manufacturer of heavy-duty gas turbines, with those of Alstom, eliminating one of the three main global competitors to GE in this market. >>Read More Back

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EC fines five envelope producers over € 19.4 million in cartel settlement

On December 11, 2014, EC had fined Bong of Sweden, GPV and Hamelin (both of
France), Mayer-Kuvert of Germany and Tompla of Spain a total of €19,485,000 for coordinating prices and allocating customers of certain types of envelopes, in breach of EU antitrust rules.

Given their cooperation in the investigation, Tompla, Hamelin and Mayer-Kuvert/GPV (the GPV assets/entities involved in the cartel were acquired by Mayer-Kuvert after the cartel had ended) benefited from fine reductions under the Commission's 2006 Leniency Notice. Since all undertakings agreed to settle the case with the Commission, their fines were reduced by a further 10% each. >>Read More

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✧ **EC conditionally clears the acquisition of Lafarge by Holcim**

On December 15, 2014, EC had found the proposed acquisition of Lafarge of France by Holcim of Switzerland to be in line with the EU Merger Regulation. Both companies are active worldwide in the manufacture and supply of cement, ready-mix concrete, aggregates and other construction materials.

The decision was conditional upon the divestment of Lafarge businesses in Germany Romania and the UK and of Holcim operations in France, Hungary, Slovakia, Spain and the Czech Republic. EC had concerns that the transaction, as originally notified, would have had a detrimental effect on competition in a significant number of markets in the EEA. The commitments offered by the two companies address these concerns. >>Read More

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✧ **EC conditionally clears the acquisition of aviation fuel supplier Statoil Fuel & Retail Aviation by rival BP**

On December 15, 2014, EC had concluded that the acquisition of aviation fuel supplier Statoil Fuel & Retail Aviation (SFRA) of Norway by its rival BP, a UK based integrated gas and oil company was in line with the EU merger regulation.

The decision was conditional upon the divestment of SFRA’s activities at the airports of Stockholm, Malmö, Gothenburg and Copenhagen. EC had concerns that the few remaining players, would have been unable to sufficiently constrain the merged entity to avoid price increases. The commitments offered by BP addressed these concerns. >>Read More

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✧ **EC conditionally clears both GSK's acquisition of Novartis' vaccines business and a consumer healthcare joint venture between GSK and Novartis**

On January 28, 2015, EC had cleared both, the proposed acquisition of the vaccines business of Novartis by GlaxoSmithKline ("GSK"), as well as the proposed creation of a new entity combining the consumer health activities of GSK and Novartis.

The decision was conditional upon the divestiture of assets in the vaccines and consumer health businesses. EC had concerns that the transaction would have eliminated an important competitor to GSK for the supply of several vaccines and consumer health products, which might lead to price increases for European consumers. The commitments addressed these concerns. >>Read More
EC conditionally clears the acquisition of GSK’s oncology business by Novartis,

On January 28, 2015, EC had found the proposed acquisition of the oncology business of GlaxoSmithKline plc. (“GSK”) of the United Kingdom by Novartis of Switzerland to be in line with the EU Merger Regulation. Both companies are active globally in the development, distribution and marketing of pharmaceutical products.

The decision was conditional upon the divestment of two of Novartis' cancer treatments: LGX818, a B-Raf inhibitor, and MEK162, a MEK inhibitor. B-Raf inhibitors and MEK inhibitors are therapies that block cell proliferation, responsible for tumour growth and progression. They can be used to treat a number of different cancers. EC had concerns that the transaction would have reduced competition and innovation for these products. The commitments addressed these concerns. >>Read More

EC conditionally clears the acquisition of certain businesses of Abbott Laboratories by Mylan

On January 28, 2015, EC had cleared the proposed acquisition of Abbott Laboratories' Non-U.S. Developed Markets Specialty and Branded Generics Business (“Abbott EPD-DM”), by Mylan, Inc (“Mylan”). Abbott EPD-DM is a Swiss-based manufacturer focused on distributing branded ex-originator products with expired patents and with internal production capabilities in Europe, Canada and Japan. Mylan is a US-based producer of generic pharmaceuticals.

The decision was conditional upon the divestment of a number of Mylan's businesses in Germany, the United Kingdom, France, Ireland and Italy. The Commission had concerns that the transaction, as initially notified, would have reduced competition on the market for several medicines. The commitments offered by Mylan addressed these concerns. >>Read More

EC announces the launch of market tests in investigations in online hotel booking sector by French, Swedish and Italian competition authorities

On December 15, 2014, EC had announced the launch of market tests in antitrust investigations by the French, Swedish and Italian competition authorities in the online hotel booking sector. The three national competition authorities have concerns that so-called “parity clauses” in contracts between the online travel agent Booking.com and hotels may have anti-competitive effects, in breach of EU and national antitrust rules.

Booking.com had proposed commitments to remedy these concerns, which - if the market tests confirm their adequacy - the national competition authorities can make legally binding on the company. The Commission was coordinating the national investigations but had opened no own investigation. >>Read More

Australi

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ACCC takes action against electrical cable suppliers for alleged cartel

On December 4, 2014, the Australian Competition and Consumer Commission (“ACCC”) had issued proceedings in the Federal Court against five companies, six individuals and an industry association for alleged cartel and exclusionary conduct in

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April 2015 Issue 8

the supply and acquisition of electrical cable throughout Australia.

The conduct primarily involves low voltage electrical cables used within residential and commercial buildings.

Proceedings had been filed against:

• Australia’s two largest manufacturers of electrical cable, Olex Australia Pty Ltd and Prysmian Power Cables & Systems Australia Pty Ltd,

• the electrical wholesaling businesses L&H (which is operated by Lawrence & Hanson Group Pty Ltd) and Rexel (which is operated by Rexel Electrical Supplies Pty Ltd and Australian Regional Wholesalers Pty Ltd),

• six senior executives from these manufacturing and wholesaling companies, and

• an industry association, Electrical Wholesalers Association of Australia Limited (EWAA).

Korea

✧ KFTC imposes penalty on Hanwha Corporation and Goryeo Nobel Corporation for suspected monopolistic conducts

On January 29, 2015, Korean Fair Trade Commission (“KFTC”) required Hanwha Corporation and Goryeo Nobel Corporation (“the parties”) to correct illegal conducts and imposed a fine of KRW 64.3 billion for controlling price, market share and impeding entry of new firms in industrial gunpowder market.

As of March 1993, the parties have colluded three times regarding the ex-factory price of industrial gunpowder. At the meantime, the parties controlled market through distributing prior market requirement and informing each other of sale volume every month for maintaining own market share (Hanhwa 72% and Goryeo 28%). In addition, the parties impeded the entry of new firms in industrial gunpowder market in order to maintain market share, just like Se Hong Corporation that exited industrial market in 2007.

KFTC expected that this sanction could promote competition in Korean industrial gunpowder market and increase entry of new firms in the field of industrial gunpowder.
KFTC imposes penalty on four construction firms for suspected bid rigging

On February 12, 2015, KFTC fined four construction firms, including Korean Hyundai Engineering & Construction, Kolon Global Corporation, Dongbu Corporation and Taeyoung Engineering & Construction, a combined KRW 7.5 billion for suspected bid rigging in a tender for energy-related facilities and another tender for wastewater treatment facilities.

In December, 2009, Korean Hyundai Engineering & Construction, Dongbu Corporation and Taeyoung Engineering & Construction had conducted collusion for bid rate in an energy-related facility tender of Gaoyang biological. At last, Taeyoung Engineering & Construction won the bidding with 94.89% bid rate according to the appointment. In addition, in 2009, Dongbu Corporation, Kolon Global Corporation and Taeyoung Engineering & Construction had conducted collusion for bid rate in a tender for a wastewater treatment facility project in Cheongju, and Kolon Global Corporation won the bidding with 94.98% bid rate.

KFTC expected that this sanction can prevent firms from similar conduct in the future. KFTC shall intensify supervision of collusion in the public bid project and firms, if found to conduct collusion, will face sanctions imposed in accordance with law and facts. >>Read More Back

Japan

JFTC advises on Toei Animation Co., Ltd

On December 17, 2014, the Japan Fair Trade Commission (“JFTC”) conducted an investigation into Toei Animation Co., Ltd. and believed Toei Animation had violated the latter part of Section 1, Article 3 of the Consumption Tax Transfer Strategy Special Measures Law, and advised on Toei according to the Section 1, Article 6. >>Read More Back

JFTC advises on Fukui Agriculture Cooperative Economic Federation

On January 16, 2015, JFTC conducted an antitrust investigation into Fukui Agriculture Cooperative Federation, which was found to have violated Article 3 of the Anti-monopoly Law to bid without following the proper competitive bid rules. JFTC conducted the order of exclusion measure in accordance with Section 2, Article 7 of the Anti-monopoly Law.

JFTC proposed rectification measures to Fukui Agriculture Cooperative, Fukui Agriculture Cooperative Economic Federation, and Fukui Prefecture accordingly. >>Read More Back

Brazil

CADE signs agreement in cartel investigation in the market of medical and hospital services provision

On January 29, 2015, the Administrative Council for Economic Defense (“CADE”) signed a Cease and Desist Agreement with Rede D’Or São Luiz S/A in the proceeding that investigates a cartel formed by private hospitals to impose price increases in
medical and hospital services.

According to the investigations, in 2000 the hospitals Santa Luzia, Santa Lúcia, and Anchieta jointly negotiated with health care plan operators to raise prices charged for the provision of medical and hospital services to practically identical levels. Facing the companies’ refusal to accept the price increases claimed, the competing hospitals communicated, in parallel, the termination of contracts or the suspension of services to beneficiaries of the health plans. The conduct would have provoked the raise of prices in the health care plans to a competition level higher than what is considered fair, which harmed the market and final consumers.

As stated in the agreement signed with CADE, Rede D’Or recognized the involvement of Hospital Santa Luzia in the investigated conduct and committed to cease it completely. **>>Read More Back**

与此同様に、Mealheiro Gymnasium, Santa Lúcia, and Anchieta jointly negotiated with health care plan operators to raise prices charged for the provision of medical and hospital services to practically identical levels. Facing the companies’ refusal to accept the price increases claimed, the competing hospitals communicated, in parallel, the termination of contracts or the suspension of services to beneficiaries of the health plans. The conduct would have provoked the raise of prices in the health care plans to a competition level higher than what is considered fair, which harmed the market and final consumers.

As stated in the agreement signed with CADE, Rede D’Or recognized the involvement of Hospital Santa Luzia in the investigated conduct and committed to cease it completely. **>>Read More Back**

✈ **CADE conditionally clears ALL/Rumo deal**

On February 12, 2015, CADE approved the acquisition of America Latina Logística (“ALL”) by Rumo Logistica Operadora Multimodal S/A (“Rumo”). The approval of the merger was conditioned to the implementation of a series of measures imposed by a Merger Control Agreement.

Rumo is in the multimodal logistics services market for sugar exports in the Port of Santos, offering solutions of transport, storing and ship loading. The company is part of Grupo Cosan, which is a producer and distributor of sugar and ethanol for national and international markets, among other activities. ALL has railroad concessions in six states and its railroads network serves four of the major ports in Brazil, enabling the flow of a considerable part of different agricultural commodities.

With the transaction, Grupo Cosan would be the major indirect stockholder of ALL. The new company would control the entire export supply chain of vegetable bulk through the Port of Santos.

The merger had the potential to stimulate market foreclosure, facilitate access to competitors’ privileged information, and favor tie-in sales. The merger could also encourage the adoption of discrimination strategies by the new company due to its dominant position resulting from the merger. **>>Read More Back**

✈ **CADE opens investigation in automotive components market**

On February 13, 2015, CADE opened three administrative proceedings to investigate alleged cartel practices in the national and international auto parts markets. The potentially affected segments were the ones of clutch facings, thermal systems, and windshield wipers.

CADE verified evidence that at least 11 companies and 51 individuals kept permanent contact aiming at fixing prices and commercial conditions, at allocating customers quotes orders, and at sharing markets between competitors and sensible commercial information. **>>Read More Back**

**Russia**
✧ **FAS in the Altai Region investigates a “milk collusion”**

On February 6, 2015, the Office of FAS in the Altai Region (“Altai OFAS Russia”) investigated and exposed collusion between 4 raw milk purchasers.

In the course of the investigation, Altai OFAS Russia established that in July – August 2014 entrepreneurs concluded an agreement, which resulted in fixing and maintaining the same purchasing prices for milk. They purchased milk in various villages in the Aleisky District, and then simultaneously reduced the purchasing prices to the same level.

As entrepreneurs deliver milk to processing companies at different prices and have different costs structures, the Commission of Altai OFAS Russia concluded that respondents had not had any objective reasons for synchronizing their pricing policies. The violators were issued a determination to stop committing the violations. In the near future fines will be imposed. [Read More](#)

✧ **FAS opens an investigation against Google**

On February 20, 2015, the Federal Antimonopoly Service (“FAS”) opened proceedings against Google Inc. upon elements of violating the antimonopoly law. Earlier the Antimonopoly Service received a complaint from Yandex about anticompetitive actions of Google.

FAS suspected that Google violated Part 1 Article 14 of the Federal Law “On Protection of Competition”. Should facts of violating the antimonopoly law by Google be exposed, FAS issued a determination to adjust contracts with producers of mobile devices, excluding those Clauses from the contracts that limit installing applications and services of other developers on these devices. [Read More](#)

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**India**

✧ **Court dismisses BMW and Hyundai petitions against CCI**

On February 4, 2015, top car manufacturers who monopolized spare parts trade by refusing to sell them in open market, thereby inviting investigation by the Competition Commission of India (“CCI”), have to face the probe, as Madras high court dismissed writ petitions filed by Hyundai Motor India Limited and BMW India Private Limited requiring to quash the CCI’s permission for expanding the monopoly probe.

If found guilty, these dozen-odd car companies could end up paying penalty of more than Rs 2,550 crore for monopolistic, restrictive or unfair trade practices or anti-corruption competitive practices adopted them. [Read More](#)

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**South Africa**

✧ **SACC blocks a merger between casino companies**

On January 29, 2015, the Competition Commission of South Africa (“SACC”) blocked the merger whereby Tsogo Sun intended to acquire a stake in SunWest and Worcester.

Tsogo Sun is a gambling (casino), hotel and entertainment business with operations in South Africa, the rest of Africa, the Middle East and the Seychelles. SunWest operates...
the GrandWest Casino and Entertainment World ( “GrandWest” ) and Grand Hotel situated in Goodwood, Cape Town. Worcester operates the Golden Valley Casino and Lodge Complex. The proposed transaction was likely to substantially prevent or lessen competition in the relevant market due to likelihood of post-merger coordination between the merging parties. >>Read More Back

Legislation

China

✧ **MOFCOM issues Guiding Opinions on Regulating Notification Name for Cases of Concentration of Undertakings**

On February 6, 2015, in order to regulate notification name for cases of concentration of undertakings, MOFCOM promulgated Guiding Opinions on Regulating Notification Name for Cases of Concentration of Undertakings (“Guiding Opinions”) in accordance with the Anti-monopoly Law for notification undertakings to refer to.

The Guiding Opinions specifies how to determine case names for concentration of undertakings in different concentrations circumstances. For instance, where the concentration falls under the circumstance where A and B establish a new joint venture C, the case name shall be “establishment of a new joint venture C by A and B; where the name of the new joint venture has not yet determined, the case name shall be “establishment of a new joint venture by A and B.” In addition, the Guiding Opinions also provide that case name of concentration shall use the full names of undertakings in a standardized and accurate manner, and shall not contain the terms such as “the notification of concentration of undertakings” or “anti-monopoly notification”. >>Read More Back

✧ **SAIC publishes the Rules on Prohibition of Abusing Intellectual Property Right to Eliminate or Restrict Competition**

On April 13, 2015, SAIC released on its official website the Rules on Prohibition of Abusing Intellectual Property Right to Eliminate or Restrict Competition (SAIC Decree No. 74) (“the Rules”), which will take effect on August 1, 2015. The Rules were passed after 10 months since the exposure draft was published in June 2014.

Main content of the Rules includes,

- Undertakings are prohibited from the following conducts in the relevant market:
  - Undertakings may not conclude any monopoly agreement as prohibited by the AML by virtue of exercising IPR;
  - An undertaking with dominant market position may not, without justifiable cause, engage in the following conducts by abusing its dominant market position to eliminate or restrict competition:
    - refuse to license other undertaking(s) to use its IPR under reasonable conditions to eliminate or restrict competition to the extent such IPR constitutes an essential facility for production and operation;
    - engage in conducts to restrict trade, tying conducts that meet certain criteria, imposition of unreasonable restrictive conditions, and discrimination among trade counterparties with equal standing;
  - An undertaking may not, in the course of exercising its IPR, use patent pool
to engage in any conduct which eliminates or restricts competition.;

- An undertaking may not, in the course of exercising its IPR, utilize the formulation and implementation of a standard (including any mandatory requirement prescribed in national technical specifications) to engage in any conduct which eliminates or restricts competition.;

- Where an undertaking is suspected of abusing IPR to eliminate or restrict competition, the Administration for Industry and Commerce shall carry out investigation;

- The Rules also provided for the factors to be taken into consideration in analyzing and finding an undertaking’s suspected abuse of IPR to eliminate or restrict competition, factors in analyzing and finding of competition impact, and sanctions to be imposed in such circumstances. >>>Read More Back

United States

- **FTC announces new thresholds for Clayton Act antitrust reviews for 2015**

  On January 15, 2015, FTC had revised the thresholds that determine whether companies are required to notify federal antitrust authorities about a transaction under Section 7A of the Clayton Act. FTC also revised the thresholds that trigger prohibitions on certain interlocking directorates under Section 8 of the Clayton Act.

  The Hart-Scott-Rodino Antitrust Improvements Act, Section 7A of the Clayton Act, requires companies proposing a merger or acquisition to notify federal authorities if the size of the parties involved and the value of a transaction exceeds certain filing thresholds, absent an applicable exemption. The FTC revises the thresholds set forth in the HSR Act annually, based on the change in gross national product. For 2015, the size-of-transaction threshold for reporting proposed mergers and acquisitions subject to antitrust enforcement will increase from $75.9 million to $76.3 million. >>>Read More Back

European Union

- **EC invites comments on proposed changes to antitrust procedures to align with directive on damages actions**

  On December 17, 2014, EC had opened a public consultation on proposed changes to its antitrust procedures in order to align them with the Directive on damages actions by victims of antitrust violations. In particular, the provisions concerning the use of information in the Commission's investigative file need to be adapted to those regarding the use of information obtained from competition authorities in damages actions under the new Directive.

  To ensure an effective protection of these documents in antitrust investigations, EC proposed to modify relevant provisions of its Procedural Regulation 773/2004 and four related texts (the notice on access to the Commission's file, the notice on immunity from fines, the notice on the conduct of settlement procedures in cartel cases and the notice on cooperation with national courts).

  Comments can be submitted until 25 March 2015. EC intended to adopt the new texts, reflecting comments received in this consultation, before the end of 2015. >>>Read More Back
EC consults on draft guidelines on joint selling of olive oil, beef and veal livestock and arable crops

On January 15, 2015, EC was inviting comments on new draft guidelines on the application of EU antitrust rules in the agricultural sector. After a reform of the EU’s Common Agricultural Policy (“CAP”), new specific rules apply to the sale of olive oil, beef and veal livestock and arable crops. In particular, the new rules allow producers to jointly commercialise these products if certain conditions are fulfilled, including that their cooperation creates significant efficiencies.

The Commission’s guidelines would contribute to ensuring that the implementation of the CAP reform improves the functioning of the food supply chain and safeguards effective competition and innovation on the markets for agricultural products.

Responses to the public consultation can be submitted until 5 May 2015. In light of the submissions received, the Commission will then review its proposal, with the aim of adopting final guidelines by the end of 2015. >>Read More Back

Japan

JFTC consults on the amendment to the Anti-monopoly Law Guide Regarding Circulating Trading Practice

On February 5, 2015, in order to clarify which actions in circulating trading practice in our country violate the Anti-monopoly law, and to prevent undertakings and undertaking groups’ actions from violating the Anti-monopoly Law, and conduct properly, JFTC published partial amendment to the Anti-monopoly Law Guide Regarding Circulating Trading Practice. >>Read More Back

Zhong Lun in the News

Zhong Lun Partner Zhang Baisha invited to speak at the 10th ALC Corporate Compliance Forum

On January 30, 2015, Mr. Zhang Baisha, partner of Zhong Lun, was invited to speak at the 10th Corporate Compliance Forum organized by AsiaLegalCouncil in Beijing. Chief compliance officers and legal managers from business community, consultants from consulting agencies, as well as practitioner from international law firms attended the Forum.

The key topics of the Forum focused on the development of corporate compliance program for businesses, including compliance regarding antitrust risks, antifraud, and anti-bribery risks, and the design and development of corporate internal control and compliance structures. In his session entitled “Anti-monopoly Investigation: Practical Guidelines for Firms and Establishment of Compliance Program”, based on the recent enforcement records of anti-monopoly and his experience as an antitrust practitioner, Mr. Zhang presented an in-depth analysis on the antitrust exposures firms may encounter from both the substantive and procedural perspectives. He further provided practical solutions for businesses to deal with anti-monopoly investigation, and reduce antitrust exposures and structure antitrust compliance program, which won applause from the participants of the Forum. >>Read More Back
Zhong Lun Partner Mr. Zhang Baisha invited to give a lecture on “AML & Competition Assessment of Governmental Regulation” for Guangzhou Legislation Bureau

On February 13, 2015, Mr. Zhang Baisha, partner of Zhong Lun, was invited to give a lecture on “Anti-monopoly Law (“AML”) & Competition Assessment of Governmental Regulation” for the Legislation Bureau of Guangzhou Municipal Government. More than 50 government officials from the Legislation Bureau and legal divisions of other bureaus of Guangzhou Municipal Government attended the lecture.

Mr. Zhang presented his insights into the regulations and policies regarding the reform of market economic system issued by the CPC Central Committee, the State Council, the Supreme People’s Court, as well as the NDRC, and highlighted the significance of market competition in resource allocation in market oriented economic reform, all of which indicate that the enforcement of AML facilitates a unified nationwide market by breaking up monopolies and territorial protection. By analyzing the relationship between government and market, Mr. Zhang put forward the measures for prevention of market failure and regulatory failure with recommendations for striking the right balance between competition policy and industrial policy during economic reform. Additionally, Mr. Zhang also elaborated on the principle of competitive neutrality for deepening the reform of market economy and advocated for the introduction of competition assessment in government’s major economic policy-making process. The lecture was highly regarded by all the attended government officials.