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中国反垄断法律资讯：2014 年 2 月 China Monthly Antitrust Update: February 2014

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Due to the general nature of its contents, this newsletter is not and should not be regarded as legal advice. For any questions, please kindly contact us directly.

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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

发改委公布新修订的《价格违法行为举报处理规定》

2014 年 1 月 15 日，国家发改委讨论通过新修订的《价格违法行为举报处理规定》，该《规定》自 2014 年 5 月 1 日起施行。该《规定》也适用于价格垄断违法行为举报的受理、办理、告知等工作。

详细信息：<http://www.chinanews.com/fz/2014/01-21/5760845.shtml>

NDRC Promulgates Newly Revised Provisions on Handling of Reporting of Price Violations

On January 15, 2014, National Development and Reform Commission (“NDRC”) voted through the newly revised *Provisions on Handling of Reporting of Price Violations* (“**Reporting Provisions**”), which will take effect on May 1, 2014. The *Reporting Provisions* could also be applied to the acceptance, handling and notice of reporting of price monopoly violations.

For details, please visit: <http://www.chinanews.com/fz/2014/01-21/5760845.shtml>

执法机构 Authorities

工商总局发文确定 2014 年竞争执法工作重点

2014 年 1 月 17 日，国家工商总局反垄断与反不正当竞争执法局（“**竞争执法局**”）下发《2014 年反垄断与反不正当竞争执法工作要点》，要求各级工商部门更新执法理念，认真履行监管执法职责，全面强化竞争执法工作，加大反垄断和反不正当竞争工作力度，努力维护公平竞争的市场秩序。

详细信息：http://www.cicn.com.cn/content/2014-01/22/content_136364.htm

SAIC Publicizes Key Points of Competition Enforcement in 2014

On January 17, 2014, the Anti-Monopoly and Anti-Unfair Competition Enforcement Bureau (“**Competition Enforcement Bureau**”) of the State Administration of Industry and Commerce (“SAIC”) issued *Key Points of Anti-Monopoly and Anti-Unfair Competition Enforcement in 2014*, requiring industry and commerce departments at all levels to update the concept of law enforcement, fulfill the regulatory responsibilities, fully strengthen the competition enforcement works and strive to maintain market order of fair competition.

For details, please visit: http://www.cicn.com.cn/content/2014-01/22/content_136364.htm

尚明会见深圳世贸组织事务中心代表

2014 年 1 月 16 日，尚明局长应约会见了深圳市世贸组织事务中心高瞻主任，双方就加强竞争政策研究、开展反垄断法培训和配合做好经营者集中反垄断调查等问题交换了意见。

详细信息：<http://fldj.mofcom.gov.cn/article/xxfb/201401/20140100462603.shtml>

MOFCOM Chief Meets Representatives of Shenzhen WTO Affairs Center

On January 16, 2014, Shang Ming, Director General of Anti-Monopoly Bureau (“AMB”) of the

Ministry of Commerce (“MOFCOM”) was invited to meet Gao Zhan, Director of Shenzhen WTO Affairs Center and exchanged views on issues such as researching competition policy, conducting antitrust training and cooperating with AMB on investigation of merger control.

For details, please visit: <http://fldj.mofcom.gov.cn/article/xxfb/201401/20140100462603.shtml>

尚明会见跨国企业代表

2014 年 1 月 16 日，商务部反垄断局局长尚明会见诺基亚公司副总裁 Paul Melin 一行，双方就知识产权保护与反垄断执法问题交换了意见。当日，尚明还会见了韩国三星集团大中华区总裁张元基社长一行，双方就反垄断执法问题交换了意见。

详细信息: <http://fldj.mofcom.gov.cn/article/xxfb/201401/20140100463217.shtml>

MOFCOM Chief Meets Representatives of Multinationals

On January 16, 2014, Shang Ming, Director General of AMB of MOFCOM met a delegation led by Paul Melin, Vice President of Nokia and both parties exchanged views in respect of IPR protection and antitrust enforcement. On that day, Shang Ming also met a delegation led by Chang Won Kie, CEO of Greater China of Samsung Group and both parties exchange views on antitrust enforcement.

For details, please visit: <http://fldj.mofcom.gov.cn/article/xxfb/201401/20140100463217.shtml>

中加反垄断工作交流会议在京举行

2014 年 1 月 14 日，中加反垄断工作交流会议在北京举行。商务部姜增伟副部长出席会议，与加拿大竞争局代表团就深化反垄断合作进行了交流。反垄断局尚明局长与加拿大竞争局贝克曼局长进行了工作会谈，双方就反垄断合作谅解备忘录草案达成共识，将择机签署。

详细信息: <http://fldj.mofcom.gov.cn/article/xxfb/201401/20140100461186.shtml>

Sino-Canada Antitrust Work Communication Meeting Held in Beijing

On January 14, 2014, Sino-Canada Antitrust Work Communication Meeting was held in Beijing. Jiang Zengwei, Vice Minister of MOFCOM attended the meeting and communicated with the delegation of Canada Competition Bureau in respect of further antitrust cooperation. Shang Ming, Director General of AMB of MOFCOM had a conversation with John Pecman, Director General of Canada Competition Bureau. Both parties reached a consensus on Draft MOU on Antitrust, which was expected to be signed at right time.

For details, please visit: <http://fldj.mofcom.gov.cn/article/xxfb/201401/20140100461186.shtml>

商务部反垄断高层人事变动

2014 年 1 月 9 日，国务院任命原商务部副部长王超为外交部副部长。王超任商务部副部长时负责分管包括反垄断局在内的六个司局。目前商务部反垄断局由现任商务部党组副书记、副部长姜增伟分管。

详细信息: http://epaper.oeeee.com/A/html/2014-01/10/content_2007078.htm

MOFCOM Undergoes Antitrust High-Level Personnel Changes

On January 9, 2014, the State Council appointed Wang Chao, former Vice Minister of MOFCOM, as Deputy Foreign Minister. When Wang was in MOFCOM, he took in charge of six Bureaus and Departments including AMB. Currently, Jiang Zengwei, another Vice Minister of MOFCOM, takes

charge of the AMB.

For details, please visit: http://epaper.oooo.com/A/html/2014-01/10/content_2007078.htm

第二届中美反垄断高层对话在北京举行

2014年1月9日，中美反垄断高层对话在北京举行。商务部副部长姜增伟主持会议，国家发改委副主任胡祖才、国家工商管理总局副局长孙鸿志和美国司法部助理部长拜尔、联邦贸易委员会主席拉米雷茨与会。中方三家反垄断执法机构与会代表先后介绍了过去一年在反垄断配套立法、重大案件执法、宣传培训和国际合作方面取得的最新进展，并对2014年各自执法重点和工作思路进行了展望。美方与会代表介绍了美国反垄断有关案件的执法情况。双方还就反垄断与知识产权关系以及竞争政策地位等问题进行了讨论。本次对话是2011年7月中美双方反垄断执法机构签署合作谅解备忘录同意每年轮流举办一次反垄断高层对话以来的第二次高层对话。

详细信息: http://www.gov.cn/gzdt/2014-01/09/content_2563306.htm

2nd Sino-US Antitrust High-Level Meeting Held in Beijing

On January 9, 2014, *Sino-US Antitrust High-Level Meeting* was held in Beijing. Jiang Zengwei, Vice Minister of MOFCOM moderated the meeting. Hu Zucai, Vice Chairman of the NDRC, Sun Hongzhi, Vice Minister of SAIC, William J. Baer, Assistant Attorney General of the Department of Justice ("DOJ") and Edith Ramirez, Chairwoman of the Federal Trade Commission ("FTC") attended the meeting. Representatives from the three Anti-Monopoly Enforcement Agencies ("AMEAs") in China successively introduced their latest progress in antitrust legislation, enforcement, propaganda and training, and international cooperation in the past year and each prospected the key points in law enforcement and work train in 2014. Representatives from America introduced the progress of some antitrust cases. Both parties also discussed issues such as the relationship of antitrust and intellectual property right ("IPR") and the status of competition policy. This was the 2nd joint, high-level meeting of the agencies since the AMEAs signed the antitrust MOU with American antitrust agencies on July 27, 2011. The MOU provided for periodic high-level consultations among all five agencies.

For details, please visit: http://www.gov.cn/gzdt/2014-01/09/content_2563306.htm

行政调查 Public Enforcement

昆明关注家政服务价格垄断

2014年1月22日，昆明发改委举行了昆明市家政服务行业价格行为提醒告诫会，要求家政协会及企业不得达成固定价格协议。此前，昆明市家政服务行业协会成立了星级家政服务员评定委员会对529名月嫂进行了星级评定，并且对每个星级月嫂的工资进行了统一标准。该行为已构成价格垄断。但因新的客户还未签订合同，因此还未造成垄断事实。

详细信息: <http://news.hexun.com/2014-01-23/161680920.html>

Kunming Concerns Price Monopoly in Household Service Industry

On January 22, 2014, Kunming Development and Reform Commission held a warning meeting in respect of price conduct in Kunming's household service industry, requiring Household Service Trade Association and enterprises not to reach price fixing agreements. Before then, Kunming

Household Service Trade Association established a Star Household Service Personnel Rating Commission to star-rate 529 maternity matrons and to unify the salary of maternity matrons in each star level, which constituted price monopoly conduct. Since no contract involving such unified salary standard was signed, no monopoly facts were caused.

For details, please visit: <http://news.hexun.com/2014-01-23/161680920.html>

工商总局辟谣 利乐反垄断调查未终止

2014 年 1 月 15, 工商总局发言人表示: 利乐公司涉嫌垄断案由国家工商总局直接立案调查, 目前本案调查工作正在进行中。2014 年 1 月 15 日凤凰财经关于《利乐反垄断立案两月后终止 知情人称工商调查方向有误》的报道与事实不符。

详细信息: http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201401/t20140115_141244.html

SAIC Refutes a Rumor: the Investigation on Tetra Pak is not Closed

On January 15, 2014, *Phoenix Finance* publicized a news report entitled "Investigation on Tetra Pak for Monopoly Conduct is closed: Insider Discloses the Direction of Investigation by SAIC is Wrong". At the same day, SAIC's Spokesman expressed that the case of Tetra Pak was directly registered and investigated by SAIC; the investigation was under way; and *Phoenix Finance's* report does not tally with the facts.

For details, please visit:

http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201401/t20140115_141244.html

广东三地驾驶员培训协会因价格垄断被罚 105 万元

2014 年 1 月 14 日, 广东省物价局价格监督检查与反垄断局披露, 广州、深圳、佛山等部分驾校和驾培协会涉嫌串通涨价, 目前已对三地驾培协会开出每家 35 万元的罚单, 共计 105 万元。

详细信息: <http://finance.sina.com.cn/consume/puguangtai/20140115/104117959845.shtml>

Guangdong Fines Driver Training Trade Association in Three Cities against Price Monopoly

January 14, 2014, Price Supervision and Anti-Monopoly Bureau of Price Bureau of Guangdong Province disclosed that some driving schools and driver training trade associations in Guangzhou City, Shenzhen City and Foshan City had colluded to raise pricing and the three driver training trade associations each was imposed of a fine of RMB 350 thousand, i.e. a total of RMB 1.05 million.

For details, please visit:

<http://finance.sina.com.cn/consume/puguangtai/20140115/104117959845.shtml>

高通 CEO: 仍不清楚中国反垄断调查原因

2014 年 1 月 8 日, 高通 CEO 保罗·雅各布表示, 该公司至今没有收到相关通知, 因此仍不确定其为何于去年末在中国遭到反垄断调查。高通去年 11 月宣布, 中国国家发改委对该公司展开了反垄断调查。但高通当时说, 并不了解自己存在何种违规行为。

详细信息: <http://tech.sina.com.cn/t/2014-01-09/11579082126.shtml>

Qualcomm CEO: Still Unclear the Reason of the Antitrust Investigation in China

On January 8, 2014, Paul Jacobs, the CEO of Qualcomm said that the company hadn't received any

relevant notice, thus still didn't know the reason why it was subject to monopoly investigation in China. Qualcomm announced that in November last year that NDRC had initiated monopoly investigation on it, but it didn't know what its violations were.

For details, please visit: <http://tech.sina.com.cn/t/2014-01-09/11579082126.shtml>

工商总局查处惠州水企滥用市场支配地位案

2014 年 1 月 6 日, 工商总局在其官方网站上公布了其受查处的首起滥用市场支配案件。惠州大亚湾溢源净水有限公司在提供建设项目施工临时供水服务时没有正当理由附加其他交易条件, 被罚没 322 万元。

详细信息: http://www.saic.gov.cn/zwgk/gggs/jzsf/201401/t20140106_140960.html

SAIC Fines a Guangdong Water Company for Abuse of Dominance

On January 6, 2014, SAIC publicized its first abuse case investigated and sentenced by authorized provincial AIC on its official website. Huizhou Daya Bay Yiyuan Purified Water Ltd. was imposed a fine of RMB 3.22 million for abuse its dominant market position to impose unreasonable trading conditions without any justification when providing the temporary water supply service to construction projects.

For details, please visit: http://www.saic.gov.cn/zwgk/gggs/jzsf/201401/t20140106_140960.html

江苏回顾反价格垄断执法情况

根据 2014 年 1 月 6 日的有关报道, 江苏反价格垄断机构 2013 年 1 月挂牌以来, 不断加大执法力度, 震慑了价格垄断行为。先后依法查结了徐州驾校、阜宁奶制品、南京混凝土、六合混凝土等价格垄断案件, 实施经济制裁 3700 多万元。

详细信息: http://www.js.xinhuanet.com/2014-01/06/c_118841021.htm

Jiangsu Retrospect Anti-Price Monopoly Enforcement

According to a piece of news on January 6, 2014, since its establishment in January 2013, Jiangsu Anti-Price Monopoly Enforcement Agency continuously intensified its law enforcement and deterred price monopoly conduct. The agency successively investigated and closed price monopoly cases such as Xuzhou Driving Schools Case, Funing Dairy Product Case, Nanjing Concrete Case, and Luhe Concrete Case and totally fined RMB 37 million.

For details, please visit: http://www.js.xinhuanet.com/2014-01/06/c_118841021.htm

经营者集中 Merger Control

商务部附条件批准赛默飞世尔科技公司收购立菲技术公司案

2014 年 1 月 14 日, 在第三阶段最后关头, 赛默飞世尔科技公司收购立菲技术公司案获得商务部反垄断局反垄断审查附条件通过。该案去年 11 月 26 日获得欧盟附条件通过, 美国方面的反垄断审查仍尚在进行中。本案涉及多达 59 个相关市场。经审查, 商务部认为赛默飞世尔科技公司收购立菲技术公司在细胞培养产品、SSP 试剂盒、SDS-PAGE 蛋白质标准品和 siRNA 试剂市场可能具有排除、限制竞争效果。根据赛默飞世尔科技公司向商务部提出的救济方案, 商务部决定附加限制性条件批准此项经营者集中。

详细信息: <http://fldj.mofcom.gov.cn/article/ztxx/201401/20140100461603.shtml>

MOFCOM Conditionally Approves the Acquisition of Life Technologies by Thermo Fisher Scientific

On January 14, 2014, at the last gasp of the third stage, the transaction of acquisition of Life Technologies by Thermo Fisher Scientific was conditionally approved by AMB of MOFCOM. The transaction was conditionally approved by Europe Commission while the antitrust review in American was still under way. The transaction involved up to 59 relevant markets and MOFCOM believed that the transaction may eliminate and restrict competition in 4 markets - Cell Culture Product, SSP Reagent Kit, SDS-PAGE Protein Standard and siRNA Reagent markets. Based on the redress plan submitted by Thermo Fisher Scientific, MOFCOM decided to conditionally approve the transaction.

For details, please visit: <http://fldj.mofcom.gov.cn/article/ztxx/201401/20140100461603.shtml>

商务部公布 2013 年第四季度无条件批准经营者集中案件列表

2014 年 1 月 11 日，商务部公布了 2013 年第四季度无条件批准经营者集中案件列表。根据该列表，商务部反垄断局在 2013 年第四季度无条件批准经营者集中案件共 56 起。

详细信息: <http://fldj.mofcom.gov.cn/article/zcfb/201401/20140100457358.shtml>

MOFCOM Releases Merger Control Data in the Fourth Quarter of 2013

On January 11, 2014, MOFCOM released the case list of concentration of undertakings unconditionally approved in the fourth quarter of 2013. According to the case list, there were a total of 56 anti-monopoly notifications being unconditionally approved by AMB of MOFCOM in the fourth quarter of 2013.

For details, please visit: <http://fldj.mofcom.gov.cn/article/zcfb/201401/20140100457358.shtml>

学术活动 Academia

美国联邦贸易委员会主席和司法部副部长率团访问对外经济贸易大学

2014 年 1 月 9 日下午，美国联邦贸易委员会主席拉米雷兹女士、美国司法部副部长拜尔先生等一行访问了对外经济贸易大学。国务院专家咨询组副组长、对外经济贸易大学竞争法中心主任黄勇教授与美方代表团就目前中国反垄断法实施迫切需要解决的重要问题、中国三家反垄断执法机构之间的协调、中国市场的特点给反垄断执法带来的特有等问题进行了深度的专业交流。

详细信息: <http://news.uibe.edu.cn/uibenews/article.php?/20149>

Chairwoman of FTC and Assistant Attorney General of DOJ Visit UIBE

On January 9, 2014, a delegation led by Edith Ramirez, Chairwoman of FTC and William J. Baer, Assistant Attorney General of DOJ visited University of International Business and Economics ("UIBE"). Prof. Huang Yong, Vice Chair of the Expert Advisory Board of the State Council Anti-Monopoly Commission and Chairman of Competition Law Center of UIBE met with the delegation and had a in-depth communication with the delegation in respect of the issues such as the critical issues urgently need to be solved in the enforcement of PRC Anti-Monopoly Law ("AML"), the coordination of the three AMEAs of China and unique problems of antitrust

enforcement in China brought by the characteristic of Chinese market.

For details, please visit: <http://news.uibe.edu.cn/uibenews/article.php?/20149>

ICT 产业中的滥用市场支配地位专题研讨会在珠海举行

2014 年 1 月 7-8 日，对外经济贸易大学竞争法中心在珠海组织召开了“ICT 产业中的滥用市场支配地位专题研讨会”。国务院专家咨询组副组长、对外经济贸易大学竞争法中心主任黄勇教授、上海交通大学法学院副院长王先林教授、查尔斯·里弗咨询公司合伙人王晓茹博士，以及部分反垄断执法机构的官员参加了会议。

Symposium on Abuse of Market Dominance in ICT Industry Held in Zhuhai

On January 7-8, 2014, Symposium on Abuse of Market Dominance in ICT Industry hosted by Competition Law Center of UIBE was held in Zhuhai. Prof. Huang Yong, Vice Chair of the Expert Advisory Board of the State Council Anti-Monopoly Commission and Chairman of Competition Law Center of UIBE, Prof. Wang Xianlin, Vice Dean of Law School of Shanghai Jiaotong University, Dr. Elizabeth Xiao-Ru Wang, Partner of Charles River Associates and officials from AMEAs attended the meeting.

团队动态 Dacheng Team

邓志松律师就滴滴打车与快的打车竞争北京市场发表观点

2014 年 1 月 27 日，《北京日报》报道，目前滴滴打车与快的打车两个软件都开始通过补贴现金的方式争取客户和出租车司机，而这种补贴方式却可以被乘客和出租车巧妙利用获得双倍补贴。邓志松律师在就该案接受采访中认为，乘客和司机合理利用了企业营销行为中的漏洞，不能被认定为欺诈行为。

详细信息: <http://www.donews.com/media/201401/2699073.shtm>

Jet Deng Delivers Views of Competition in Beijing Market between Didi Dache and Kuaidi Dache on Beijing Daily

On Jan 27, 2014, *Beijing Daily* reported that two car finding Apps, Didi Dache and Kuaidi Dache, competed customers and taxi drivers by means of paying subsidies, which can be taken advantages of by passengers and drivers to get double subsidies. During interview concerning the case, Jet Deng pointed out that passengers and drivers rationally use the loophole of the two entities' marketing and can't be considered as implementing fraud.

For details, please visit: <http://www.donews.com/media/201401/2699073.shtm>

“反垄断调查与合规专题研讨会”在北京举行

2014 年 1 月 22 日，大成律师事务所与律商联讯成功举办“反垄断调查与合规专题研讨会”。来自国内企业界、学术界与反垄断执法界的代表济济一堂，共同讨论了反垄断行政调查与企业反垄断合规问题。

国务院反垄断委员会专家咨询组副组长、对外经济贸易大学竞争法中心主任黄勇教授就“竞争政策与反垄断执法”发表了精彩演讲。来自反垄断执法界的工商总局、商务部与发改委的领导也到会并致辞。

研讨会的前半场由大成律师事务所邓志松律师主持，下半场由涉外法律业务部主任邓永泉律

师主持。邓志松律师就“反垄断行政调查程序与企业应对指南”作了详细介绍，戴健民律师就“企业如何构建反垄断合规体系”发表了演讲。现场提问踊跃，气氛热烈，上百位与会代表在新春即将来临之际共同感受到反垄断合规问题的重要性与迫切性。

Seminar on Anti-Monopoly Investigation and Compliance Held in Beijing

On January 22, *China Antitrust Law Forum: Anti-Monopoly Investigation and Compliance* co-hosted by Dacheng Law Offices and LexisNexis was held in Beijing. Representatives from business circles, academia and AMEAs attended the meeting and discussed around issues of anti-monopoly investigation and compliance.

Prof. Huang Yong, Vice Chair of the Expert Advisory Board of the State Council Anti-Monopoly Commission and Chairman of Competition Law Center of UIBE delivered a speech, “Competition Policy and Antitrust Enforcement”. Officials from SAIC, MOFCOM and NDRC attended the meeting and made speeches.

The first half of the meeting was moderated by Jet Deng, Partner of Dacheng, while the second half was moderated by Dennis Deng, Director of International Legal Business Department of Dacheng. Jet Deng gave an address entitled “*Administrative Procedures of Anti-Monopoly Investigation and Guidelines for Enterprises to Deal with the Investigation*” and Ken Dai, Partner of Dacheng, elaborated a speech, “How to Construct Anti-Monopoly Compliance Program”. The forum enjoyed a warm atmosphere and more than 100 attendees realized the importance and urgency of the issue of anti-monopoly compliance.

大成反垄断团队开通国内首个反垄断微信公众号

2014年1月16日，大成反垄断团队开创性地开通了国内首个反垄断实务微信公众号-“反垄断实务评论”。该微信公众号致力于提供中国反垄断法最新资讯，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。“反垄断实务评论”微信公众号自开通开始，迅速受到广泛关注，已成为大成反垄断团队与外界进行信息交流的重要工具。

Dacheng Antitrust Team Opens the First Antitrust WeChat Public Account in China

On January 16, 2014, Dechang Antitrust Team opened the first antitrust practice WeChat public account in China, “Antitrust Practice Review”. The WeChat public account was devoted to provide the latest antitrust news in China, antitrust case analysis, theory introduction, guideline of practice and original reviews and articles. The WeChat public account had gained extensive attentions in a short time and had become an important communication tool between Dechang Antitrust Team and its client.

戴健民律师与邓志松律师联名在《国际竞争政策》发表专文

2014年1月7日，大成反垄断团队的邓志松律师与戴健民律师在《国际竞争政策》反垄断年鉴（CPI Antitrust Chronicle）发表专题论文“*How Chinese Antitrust Law Has Affected the Business Operations in China: Perspective of Life Science Industry*”。该文以生命科学行业视角，从合并控制、价格垄断、非价格垄断、反垄断民事诉讼等多个方面详尽地分析了中国反垄断法对企业经营的影响。

Ken Dai and Jet Deng Co-Author an Article for CPI Antitrust Chronicle

On January 7, 2014, *Competition Policy International Antitrust Chronicle* (“**CPI Antitrust Chronicle**”) published an article, “*How Chinese Antitrust Law Has Affected the Business Operations in China: Perspective of Life Science Industry*”, co-written by Dacheng Antitrust Team’s Ken Dai and Jet Deng. The article gave an in-depth analysis on the impact of AML on the Business operation from the aspects of merger control, price-monopoly, non-price monopoly and civil litigation in the perspective of life science.