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中国反垄断法律资讯：2014 年 10 月

China Monthly Antitrust Update: October 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

商务部就汽车品牌管理办法修改征求意见

2014年9月5日，商务部邀请中国汽车流通协会、经销商集团、整车企业、行业专家等各领域人士召开了一次紧急会议，就《汽车品牌管理办法》修订征求各方意见，希望对现行《办法》进行修改，以改变汽车品牌目前在中国的经销机制，而新规则将允许经销商多品牌经营。

详细信息：<http://auto.qq.com/a/20140915/016111.htm#rd>

MOFCOM Seeks for Opinions in Amending the Administration of Automobile Brand Sales Implementing Procedures

On September 5, 2014, Ministry of Commerce (“MOFCOM”) held an emergency conference, inviting the China Automobile Dealers Association, the Dealership Group, automobile enterprises, industrial experts and other people in various fields to seek for opinions in amending the current *Administration of Automobile Brand Sales Implementing Procedures*. The purpose is to change the distribution mechanism of automobile brands in China and the new rule will allow the distributors to manage multiple brands.

For details, please visit: <http://auto.qq.com/a/20140915/016111.htm#rd>

执法机构 Authorities

商务部反垄断局局长尚明会见美国驻华使馆公使衔经济参赞

2014年9月19日，尚明局长会见来访的美国驻华使馆公使衔经济参赞费德玮(Jonathan Fritz)一行。尚明局长介绍了中国反垄断法实施以来经营者集中反垄断审查的最新进展，并回答了近期反垄断执法的相关热点问题。费德玮参赞表示感谢，并表达了进一步协助中美在反垄断执法领域交流与合作的愿望。

详细信息：<http://fldj.mofcom.gov.cn/article/xxfb/201409/20140900737290.shtml>

MOCOM DG Meets the Economic Minister Counselor of the US Embassy in China

On September 19, 2014, Mr. Shang Ming, Director General of the Anti-Monopoly Bureau (“AMB”) of the MOFCOM met a delegation led by the Economic Minister Counselor of the US Embassy in China, Jonathan Fritz. Mr. Shang Ming introduced the latest development of anti-monopoly review towards the concentration of undertakings since the implementation of the Chinese Anti-Monopoly Law (“AML”) and responded to some hot issues in recent anti-monopoly enforcement. Mr. Fritz expressed his thanks and his wish for further assisting the communication and cooperation in anti-monopoly enforcement between China and US.

For details, please visit: <http://fldj.mofcom.gov.cn/article/xxfb/201409/20140900737290.shtml>

三大反垄断执法机构联合举行新闻发布会

2014年9月11日国务院新闻办在国务院新闻办新闻发布厅举行吹风会，请国务院反垄断委员会办公室主任、商务部反垄断局局长尚明，发展改革委价格监督检查与反垄断局局长许昆

林，工商总局反垄断与反不正当竞争执法局局长任爱荣介绍反垄断执法工作情况，并答记者问。

详细信息：http://www.china.com.cn/zhibo/2014-09/11/content_33487367.htm?show=t#rd

The Three Anti-monopoly Enforcement Authorities Co-holds a Press Conference

On September 11, 2014, the State Council Information Office held a briefing in the State Council Information Office Press Briefing Room. Mr. Shang Ming, the Director of Anti-Monopoly Commission office of the State Council and Director General of the AMB of MOFCOM, Mr. Xu Kunlin, the Director-General of Price Supervision and Anti-Monopoly Bureau of National Development and Reform Commission (“NDRC”) and Ms. Ren Airong, the minister of Anti-monopoly and Anti-unfair Competition Enforcement Bureau of State Administration for Industry and Commerce (“SAIC”) introduced the anti-monopoly enforcement and answered the journalists’ questions.

For details, please visit:

http://www.china.com.cn/zhibo/2014-09/11/content_33487367.htm?show=t#rd

商务部反垄断局副局长郑文带队赴上海进行调研

2014年9月1-3日，反垄断局郑文副局长带队赴上海就经营者集中反垄断审查工作进行调研，通过实地走访企业、召开座谈会等方式，深入了解半导体、医疗器械等相关行业的市场竞争状况，并与上海商务系统有关同志进行了工作交流。

详细信息：<http://fldj.mofcom.gov.cn/article/xxfb/201409/20140900720633.shtml>

MOFCOM Deputy DG Visits Shanghai for Investigation and Survey

From September 1 to 3, 2014, the Deputy Director General of the AMB of MOFCOM, Mr. Zheng Wen led a delegation to Shanghai for investigation and survey of anti-monopoly review work. They looked into the competition circumstances in semiconductor, pharmaceutical devices and other related industries through on-spot visit to enterprises, holding forum and other methods and communicated to the relevant staff in commerce departments in Shanghai.

For details, please visit:

<http://fldj.mofcom.gov.cn/article/xxfb/201409/20140900720633.shtml>

行政调查 Public Enforcement

国家发改委发布河北省行政垄断案件处理结果

2014年9月26日，国家发改委发布河北省行政垄断案件处理结果。国家发改委根据举报，依法对河北省交通运输厅、物价局、财政厅违反《反垄断法》相关规定，对该省客运班车实行通行费优惠政策，滥用行政权力排除、限制相关市场竞争的案件进行了调查。国家发展改革委就相关问题与交通运输部进行了沟通确认，并已经依据《反垄断法》相关规定，向河北省人民政府办公厅发出执法建议函，建议其责令交通运输厅等有关部门改正相关行为，对在本省内定点定线运行的所有客运企业，在通行费上给予公平待遇。

详细信息：http://www.ndrc.gov.cn/fzgggz/jgdyfld/jjszhd/201409/t20140926_626774.html

NDRC Issues the Decision of the Administrative Anti-monopoly Case in Hebei

On September 26, 2014, NDRC published the decision of the administrative anti-monopoly case in Hebei. According to a report, NDRC conducted an investigation to the Department of Transportation, Price Bureau and Department of Finance in Hebei of their suspicious abuse of administrative power to eliminate and restrict the relevant market competition through the implementation of discriminatory toll policy favoring local passenger coaches in Hebei Province, in violation of the AML. NDRC communicated and confirmed the issue with the Department of Transportation and issued an enforcement advice letter to the general office of the Hebei Provincial People's Government and advised the latter to order the Department of Transportation and other departments to correct the relevant conducts and to impose non-discriminatory toll on passenger companies which run at fixed time and course within the province.

For details, please visit:

http://www.ndrc.gov.cn/fzgggz/jgidyfld/jjszhd/201409/t20140926_626774.html

发改委公布 12 家被罚日本零部件企业决定书

2014 年 9 月 18 日，国家发改委在其官网上公布了对 12 家日本汽车零部件和轴承企业的行政处罚决定书。发改委对该 12 家日本企业罚款 12.35 亿人民币处罚其横向垄断行为，其中，株式会社不二越、日立汽车系统有限公司因主动报告达成垄断协议有关情况并提供重要证据而被免除行政处罚。

详细信息：<http://jjs.ndrc.gov.cn/figld/>

NDRC Publishes the Decision of 12 Fined Japanese Parts Enterprises

On September 18, 2014, NDRC published the written decision of administrative penalty of the 12 fined Japanese automobile parts and bearings enterprises on its website. The NDRC gave a total fine of RMB1.235 billion to the 12 Japanese enterprises for their horizontal anti-monopoly activities besides Nachi and Hitachi which were exempted from the punishment for reporting the anti-monopoly agreement and offering important evidence.

For details, please visit: <http://jjs.ndrc.gov.cn/figld/>

发改委公布对浙江保险行业行政处罚决定书

2014 年 9 月 2 日，发改委在其官网上公布对浙江保险行业横向垄断行为的行政处罚决定书。对浙江省保险行业协会处以 50 万元的最高额罚款，对负次要责任的涉案 23 家省级财产保险公司处以上一年度商业车险销售额 1% 的罚款，共计 11019.88 万元。据悉，此次是发改委首次公布其行政处罚决定书。

详细信息：http://www.ndrc.gov.cn/fzgggz/jgidyfld/jjszhd/201409/t20140902_624514.html

NDRC Publishes the Decision of Administrative Penalty to the Zhejiang Insurance Industry

On September 2, 2014, NDRC published the decision of administrative penalty to the Zhejiang Insurance Industry for conducting horizontal anti-monopoly activities. The highest fine, RMB 0.5 million, was given to the Zhejiang Insurance Industrial Association and the other ticket was given to the 23 provincial insurance companies for about RMB 11 thousand, 1 percent of the total sales in commercial automobile insurance of each company. It is said that it is the first time that NDRC published its decision of administrative penalty.

For details, please visit:

http://www.ndrc.gov.cn/fzgggz/jgidyfld/jjszhd/201409/t20140902_624514.html

经营者集中 Merger Control

商务部反垄断局公布 36 起经营者集中简易案例

自 2014 年年初商务部陆续公布了经营者集中简易案件的认定标准、适用程序等相关问题并于 2014 年 5 月 22 日公布了第一起经营者集中简易案例后，截至到 2014 年 9 月 30 日，被公布的经营者集中简易案例数量已达到 36 起，并且该类案件每月的数量呈逐步上升趋势。

详细信息: <http://fldj.mofcom.gov.cn/article/jyzjyajs/>

AMB of MOFCOM Has Published 36 Simple Cases of Concentration of Undertakings

Since the beginning of the 2014 when the MOFCOM published the applicable standards, procedure and other relevant issues of simple cases of concentration of undertakings and on May 22, 2014, when the first simple case was published, the amount of simple cases published has reached 36 until September 30, 2014 and the cases has presented a state of escalation.

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

学术活动 Academia

第一期商务系统《反垄断法》宣传培训班在合肥举办

2014 年 9 月 18 日至 19 日，反垄断局在安徽合肥举办了 2014 年第一期商务系统《反垄断法》宣传培训班，就反垄断法律制度、经营者集中反垄断申报与审查实务、经营者集中附条件批准监督执行及违法实施经营者集中的调查处理等问题进行了讲解。反垄断局吴振国副局长出席培训班并致辞。有关地方商务主管部门、国有企业代表近百人参加了培训。

详细信息: <http://fldj.mofcom.gov.cn/article/xxfb/201409/20140900740713.shtml>

The First AML Advocacy Training in Commerce System Is Held in Hefei

From September 18 to 19, 2014, the AMB of MOFCOM held the first AML advocacy training in commerce system in Hefei to introduce the anti-monopoly law system, the practice of antitrust notification and review of concentration of undertakings, the implementation and supervision of conditional approval of concentration of undertakings, the investigation of conducting concentration of undertakings illegally and other related issues. Mr. Wu Zhenguo, the deputy Director General of the AMB attended the training and offered his speech. Nearly one hundred representatives from relevant local commercial departments or from state-owned enterprises have attended the training.

For details, please visit: <http://fldj.mofcom.gov.cn/article/xxfb/201409/20140900740713.shtml>

团队动态 Dacheng Team

大成律师赴欧洲参加国际律师协会反垄断年会

2014 年 9 月 19-20 日，北京大成律师事务所反垄断团队邓志松律师和戴健民律师远赴欧洲佛罗伦萨参加国际律师协会反垄断委员会年会。两位律师与来自欧盟及其成员国的反垄断执法机构、联合国官员以及世界各国律师同行就中国反垄断法实施进行了广泛的交流，指出中国反垄断执法不存在内外之别并正在逐步完善中，外企在中国应重视反垄断合规审查以及中外应当加强交流。戴律师受邀在大会上发言，从宏观和微观角度对中国反垄断法进行了详细介绍。

详细信息：

http://mp.weixin.qq.com/s?__biz=MzA3NTMwMTkxNA==&mid=202120353&idx=1&sn=0c635dac9e8fd26f9604b3294f42ba82#rd

Lawyers from Dacheng Law Offices Attend Anti-monopoly Annual Meeting of IBA in Europe

From September 19 to 20, 2014, Jet Deng and Ken Dai, two partners from Dacheng Law offices Anti-monopoly Team flew to join the annual meeting of the IBA anti-monopoly commission in Florence. The two lawyers communicated the anti-monopoly enforcement in China with the anti-monopoly enforcement authorities from EU and its member states, officials from the UN and lawyers from the world, pointing out that the anti-monopoly enforcement in China gives fair treatment towards domestic and foreign companies and it is now getting improved. Foreign companies shall put emphasis on the anti-monopoly compliance and the Chinese and foreign authorities shall enhance communication. Ken Dai was invited to give a speech in the meeting and he introduced the Chinese anti-monopoly law from both views of macroscopic and microscopic scale.

For details, please visit:

http://mp.weixin.qq.com/s?__biz=MzA3NTMwMTkxNA==&mid=202120353&idx=1&sn=0c635dac9e8fd26f9604b3294f42ba82#rd

邓志松律师在中国专利信息年会发表反垄断法演讲

2014 年 9 月 12 日，大成律师事务所的邓志松律师受邀参加一年一度的亚洲规模最大的专利信息盛会——中国专利信息年会（PIAC）并进行发言。邓志松律师从专利权保护和反垄断法入手，通过案例对反垄断法对知识产权保护的必要性以及标准必要专利在实践中遇到的问题等方面进行了深入剖析，邓律师还详细介绍了其他国家的立法状况和执法实践等其他问题。

详细信息：

http://mp.weixin.qq.com/s?__biz=MzA3NTMwMTkxNA==&mid=202017311&idx=3&sn=cc3a0b2e3c5b704d2a57ac2260db161e#rd

Jet Deng Delivers Speech on Chinese AML in PIAC

On September 12, 2014, Jet Deng from Dacheng Law Office was invited to attend the largest patent information conference in Asia - the Patent Information Annual Conference ("PIAC") of China - and delivered a speech. He started from IP protection and AML and then analyzed the necessity of AML's protection for intellectual property and the actual difficulties in implementing

standard essential patents through cases. Jet Deng introduced the legislative status, enforcement practice and other issues of other countries.

For details, please visit:

http://mp.weixin.qq.com/s?_biz=MzA3NTMwMTkxNA==&mid=202017311&idx=3&sn=cc3a0b2e3c5b704d2a57ac2260db161e#rd

大成律师出版《反垄断突袭搜查及其应对指南》

近期高通、微软、奔驰等企业纷纷遭到反垄断执法机构的突袭搜查，引起相关企业广泛关注。2014年9月初，应知名法律媒体的特邀，大成律师事务所反垄断团队邓志松律师与戴健民律师，对反垄断突袭搜查所涉问题进行系统梳理，结合所涉法规、相关案例等信息进行实务论述，使企业对突袭搜查的相关内容及应对措施有一个全面了解及掌握。

详细信息: <http://law.wkinfo.com.cn/topic/61000000154/index.HTML>

Dacheng Lawyers Publishes Manual for Dawn Raids of Anti-monopoly Investigation

Recently, Qualcomm, Microsoft, Benz and other enterprises suffered from dawn raids by the anti-monopoly enforcement authorities, which drew wide attention from the relevant enterprises. In September 2014, after being invited by a famous legal media, Jet Deng and Ken Dai from Dacheng Law Offices Anti-monopoly Team summarized the practice analysis of the relevant regulation and cases on the basis of issues arisen in the anti-monopoly dawn raids. The purpose is to give a full knowledge and command of the content and solutions in respect of the dawn raid.

For details: <http://law.wkinfo.com.cn/topic/61000000154/index.HTML>

大成律师在《知识产权管理》上发表专题文章

滥用标准必要专利的反垄断规制已成为全球热议的话题，中国近期对高通持续的反垄断调查与此相关。2014年9月，应国际知名杂志《知识产权管理》(Managing IP)的邀请，大成律师事务所反垄断团队邓志松律师与戴健民律师就美国高通公司涉嫌滥用标准必要专利的垄断行为之类型进行了详细的分析，包括但不限于设定过高的许可费率，将标准必要专利与非标准必要专利进行捆绑许可，以及对过期专利进行收费等。

详细信息:

http://mp.weixin.qq.com/s?_biz=MzA3NTMwMTkxNA==&mid=202143412&idx=1&sn=e3f34a1faffe407b7af760da991116ed#rd

Dacheng Lawyers Publishes a Feature Article on Managing IP

The anti-monopoly regulation towards the abuse of standard essential patent has become a worldwide hot issue and also concerns Chinese anti-monopoly authority's continuous investigation into Qualcomm. In September 2014, invited by a famous international magazine *Managing IP*, Jet Deng and Ken Dai from Dacheng Law Offices Anti-monopoly Team analyzed the abuse of standard essential patents by Qualcomm including charging the over high license fee, bundled licensing of standard essential patents and non-standard essential patents, charging the overdue patents and other conducts.

For details, please visit:

http://mp.weixin.qq.com/s?_biz=MzA3NTMwMTkxNA==&mid=202143412&idx=1&sn=e3f34a1faffe407b7af760da991116ed#rd