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## 中国反垄断法律资讯：2014年6月 China Monthly Antitrust Update: June 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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## 执法机构 Authorities

### 商务部反垄断局局长尚明会见美国联邦贸易委员会主席及美国司法部助理部长

2014年5月20日，商务部反垄断局局长尚明会见来访的美国联邦贸易委员会主席拉米雷茨及美国司法部助理部长奥弗顿一行。双方就中美反垄断合作等事宜交换了意见。

详细信息：<http://fldj.mofcom.gov.cn/article/xxfb/201405/20140500594220.shtml>

### MOFCOM DG Meets FTC Chairwoman and DOJ DAAG

On May 20, 2014, Mr. Shang Ming, Director General of the Anti-Monopoly Bureau (“AMB”) of the Ministry of Commerce (“MOFCOM”) met a delegation led by Ms. Edith Ramirez, Chairwoman of U.S. Federal Trade Commission (“FTC”) and Ms. Leslie Overton, Deputy Assistant Attorney General of U.S. Department of Justice (“DOJ”). Both parties exchanged their views on matters such as antitrust cooperation between China and America.

For details, please visit: <http://fldj.mofcom.gov.cn/article/xxfb/201405/20140500594220.shtml>

### 商务部反垄断局局长尚明会见澳大利亚竞争与消费者委员会西姆斯主席

2014年5月20日，商务部反垄断局局长尚明会见了来访的澳大利亚竞争与消费者委员会主席罗德·西姆斯，双方就各自的反垄断立法执法进展和加强反垄断合作等事宜交换了意见，并共同签署《中华人民共和国商务部与澳大利亚竞争与消费者委员会关于反垄断合作的谅解备忘录》。

详细信息：<http://fldj.mofcom.gov.cn/article/xxfb/201405/20140500597184.shtml>

### MOFCOM DG Meets ACCC Chairman

On May 20, 2014, Mr. Shang Ming, Director General of the AMB of the MOFCOM met a delegation led by Mr. Rod Sims, Chairman of Australian Competition and Consumer Commission (“ACCC”). Both party exchanged views on matters such as the latest progress of antitrust legislation and enforcement and antitrust cooperation and cosigned *Memorandum of Understanding on Antitrust Cooperation between the Ministry of Commerce and the Australian Competition and Consumer Commission*.

For details, please visit: <http://fldj.mofcom.gov.cn/article/xxfb/201405/20140500597184.shtml>

### 国家发改委反垄断局局长许昆林率团访问韩国

2014年5月12-16日，国家发改委价格监督检查与反垄断局局长许昆林率团访问韩国，与韩国公平交易委员会有关官员及相关专家学者举行会议并进行深入交流。

详细信息：[http://finance.cnr.cn/gundong/201405/t20140513\\_515498143.shtml](http://finance.cnr.cn/gundong/201405/t20140513_515498143.shtml)

### NDRC DG Visits South Korea

On May 12-16, 2014, Mr. Xu Kunlin, Director General of the Price Supervision and Anti-Monopoly Bureau of the National Development and Reform Commission (“NDRC”) visited South Korea and had an in-depth communication with officials from Korean Fair Trade Commission and relevant scholars and experts.

For details, please visit: [http://finance.cnr.cn/gundong/201405/t20140513\\_515498143.shtml](http://finance.cnr.cn/gundong/201405/t20140513_515498143.shtml)

### 孙鸿志出席全国工商系统第四期反垄断与反不正当竞争执法专家型人才培养班开班式

2014年5月5日，全国工商系统第四期反垄断与反不正当竞争执法专家型人才培养班开班式在国家工商总局行政学院举行。国家工商总局副局长孙鸿志出席开班式并讲话。

详细信息：[http://www.cicn.com.cn/content/2014-05/08/content\\_140466.htm](http://www.cicn.com.cn/content/2014-05/08/content_140466.htm)

### SAIC Vice Minister Gives Opening Remarks on Technocrat Training Class

On May 5, 2014, the opening ceremony of the 4<sup>th</sup> Anti-Monopoly and Anti-Unfair Competition Enforcement Technocrat Train Class of administration for industry and commerce system was held in Beijing. Mr. Sun Hongzhi, Vice Minister of the State Administration for Industry and Commerce (“SAIC”) attended the ceremony and made an opening speech.

For details, please visit: [http://www.cicn.com.cn/content/2014-05/08/content\\_140466.htm](http://www.cicn.com.cn/content/2014-05/08/content_140466.htm)

### 商务部向汽车行业协会下发《关于开展地区封锁行业垄断问卷调查的通知》

近日，商务部向中国汽车流通协会下发了《关于开展地区封锁行业垄断问卷调查的通知》，开始征询协会及其会员企业关于打破地区封锁和行业垄断方面的意见和诉求。

详细信息：<http://www.eeo.com.cn/2014/0527/261092.shtml>

### MOFCOM Issues Monopoly Questionnaires to Automobile Dealers Association

Recently, MOFCOM issued *Notice on Questionnaire Survey for Regional Blockage and Industry Monopoly* to China Automobile Dealers Association, collecting views and claims from the Association and its members on breaking regional blockage and industry monopoly.

For details, please visit: <http://www.eeo.com.cn/2014/0527/261092.shtml>

## 行政调查 Public Enforcement

### 纵向价格限制再开罚单 发改委处罚镜片厂商

2014年5月29日，国家发改委网站透露，因依视路、尼康、蔡司、豪雅等知名框架镜片生产企业和博士伦、强生、卫康等主要隐形眼镜片生产企业普遍对下游经营者进行不同形式的转售价格维持，存在固定镜片转售价格或限定镜片最低转售价格的行为，侵犯到消费者利益，国家发改委已责成广东、北京、上海三地的价格主管部门依据《反垄断法》对涉事企业进行处罚，共计罚款1900多万元。这是国家发改委自去年茅台、五粮液案、奶粉案后，对纵向价格限制行为的又一次处罚案件。

详细信息：[http://www.ndrc.gov.cn/gzdt/201405/t20140529\\_613562.html](http://www.ndrc.gov.cn/gzdt/201405/t20140529_613562.html)

### NDRC Fines Lens Manufacturers for RPM

On May 29, 2014, official website of NDRC released that since several famous frame glass lens manufacturers such as Essilor, Nikon, Zeiss and Hoya, and main contact lens manufacturers such as Bausch & Lomb, Johnson & Johnson and Weicon conducted different forms of resale price maintenance (“RPM”) behaviors, including fixing resale price of lens or restricting minimum resale price of lens, which infringed the interests of consumers, NDRC had instructed the pricing departments of Guangdong, Beijing, and Shanghai to impose a total of a fine of more than 19 million RMB on the manufacturers involved. This case is another RPM case of NDRC after the Moutai & Wuliangye Case and Infant Formula Case in last year.

For details, please visit: [http://www.ndrc.gov.cn/gzdt/201405/t20140529\\_613562.html](http://www.ndrc.gov.cn/gzdt/201405/t20140529_613562.html)

### 国家发改委对美国 IDC 公司涉嫌价格垄断案中止调查

2014 年 5 月 22 日，国家发改委宣布，鉴于美国 IDC 公司在中国对其实施涉嫌价格垄断调查期间积极配合调查，与华为公司就专利许可费和其他条款达成和解协议，同时表示将参照对华为公司的许可条件与中国其他企业进行专利许可谈判，国家发改委已决定中止对美国 IDC 公司涉嫌价格垄断案的调查。2013 年 6 月，国家发改委根据举报对 IDC 公司启动了反垄断调查。

详细信息: [http://news.xinhuanet.com/fortune/2014-05/22/c\\_126533694.htm](http://news.xinhuanet.com/fortune/2014-05/22/c_126533694.htm)

### NDRC Suspends Investigation Against IDC

On May 22, 2014, NDRC announced that since InterDigital Company (“IDC”) is being cooperative during the investigation for the alleged price monopoly in China, has reached a settlement agreement with Huawei Company on patent licensing fees and other terms, and has committed to conduct patent licensing negotiation with other Chinese companies with the licensing conditions referring to ones gave to Huawei Company, NDRC had decided to suspend the investigation on IDC for the alleged price monopoly. In June, 2013, according to reports, NDRC initiated its investigation on IDC.

For details, please visit: [http://news.xinhuanet.com/fortune/2014-05/22/c\\_126533694.htm](http://news.xinhuanet.com/fortune/2014-05/22/c_126533694.htm)

### 国家发改委反垄断局局长许昆林与高通公司就反垄断调查进一步交换意见

2014 年 5 月 8 日，美国高通公司总裁 Derek Aberle 率包括执行副总裁兼首席法律顾问在内的 8 位副总裁到国家发展改革委，就反垄断调查的有关问题与国家发展改革委价格监督检查与反垄断局许昆林局长进一步交换了意见。

详细信息: [http://jjs.ndrc.gov.cn/gzdt/201405/t20140509\\_611111.html](http://jjs.ndrc.gov.cn/gzdt/201405/t20140509_611111.html)

### NDRC DG Exchanges Views with Qualcomm

On May 8, 2014, Mr. Derek Aberle, Qualcomm CEO, leading 8 vice presidents including an executive vice-president and general counsel, paid a visit to NDRC and further exchanged views on its antitrust investigation with Mr. Xu Kunlin, Director General of the Price Supervision and Anti-Monopoly Bureau of NDRC.

For details, please visit: [http://jjs.ndrc.gov.cn/gzdt/201405/t20140509\\_611111.html](http://jjs.ndrc.gov.cn/gzdt/201405/t20140509_611111.html)

## 经营者集中 Merger Control

### 商务部反垄断局局长尚明一行赴上海调研

根据商务部官网 2014 年 5 月 28 日消息，近日，商务部反垄断局局长尚明一行赴上海就经营者集中反垄断审查工作进行调研，深入企业实地考察，与上海相关行业主管部门和商务主管部门进行了工作交流。

详细信息: <http://fldj.mofcom.gov.cn/article/tpxw/201405/20140500604422.shtml>

### MOFCOM DG Conducts Researches in Shanghai

On May 28, 2014, official website of MOFCOM released that recently, a group led by Mr. Shang

Ming, Director General of AMB of MOFCOM, went to Shanghai to conduct investigation and survey in respect of antitrust review for concentration of undertakings, conducted field study on the involved company and had communications with officials from relevant industry departments and commercial departments.

For details, please visit: <http://fdj.mofcom.gov.cn/article/tpxw/201405/20140500604422.shtml>

### 商务部公示第一起经营者集中简易案件

2014年5月22日, 商务部对罗尔斯-罗伊斯控股公司(“罗尔斯-罗伊斯”)拟收购罗尔斯罗伊斯动力系统控股公司(“罗尔斯罗伊斯动力系统”)单独控制权(共同控制变为单独控制)案进行简易案件公示, 这是自今年4月18日《关于经营者集中简易案件申报的指导意见(试行)》出台以来, 第一起经营者集中简易案件。

详细信息: <http://fdj.mofcom.gov.cn/article/jyzizyaigs/201405/20140500597172.shtml>

### MOFCOM Publicizes Its First Streamlined Case

On May 22, 2014, MOFCOM publicized a streamlined case, the proposed acquisition of the single control right (from joint control to single control) of Rolls-Royce Power Systems AG by AG Rolls-Royce Holdings PLC, which is the first streamlined case since April 18, 2014, the promulgation date of *Guiding Opinions on Notification of Streamlined Cases of Concentration of Undertakings (For Trial Implementation)*.

For details, please visit: <http://fdj.mofcom.gov.cn/article/jyzizyaigs/201405/20140500597172.shtml>

### 商务部反垄断局副局长郑文一行赴湖南进行调研

2014年5月20日至22日, 商务部反垄断局郑文副局长一行赴湖南就经营者集中反垄断审查工作进行调研, 深入企业实地考察, 并与湖南商务系统有关官员进行了工作交流。

详细信息: <http://fdj.mofcom.gov.cn/article/xxfb/201405/20140500598716.shtml>

### MOFCOM DDG Conducts Researches in Hunan

On May 20-22, 2014, a group led by Mr. Zheng Wen, Deputy Director General of AMB of MOFCOM, went to Hunan to conduct investigation and survey in respect of antitrust review for concentration of undertakings, conducted field study on the involved company and had communications with officials from Hunan commercial departments.

For details, please visit: <http://fdj.mofcom.gov.cn/article/xxfb/201405/20140500598716.shtml>

## 民事诉讼 Private Actions

### 2014 中国反垄断民事诉讼论坛在京举办

2014年5月24-25日, 由对外经济贸易大学竞争法中心、ICT产业竞争实验室联合主办, 最高人民法院知识产权庭为支持单位的“2014中国反垄断民事诉讼论坛”在北京举行。参会各方从法律、经济、社会等多角度对“纵向限制的反垄断司法规制”、“知识产权的反垄断规制”、“最惠国待遇条款(MFN)的竞争影响”等相关议题进行了深入的探讨。国务院反垄断委员会专家咨询组副组长、对外经济贸易大学教授黄勇以及来自最高人民法院和北京、上海、江苏、广东等省市高级、中级人民法院的30余名法官, 美国联邦哥伦比亚特区巡回上诉法院资

深法官 Douglas H. Ginsburg, 乔治华盛顿法学院教授 William Kovacic 等专家、学者共计 200 余人出席了本届论坛。

详细信息: <http://theory.people.com.cn/n/2014/0528/c40534-25076325.html>

### 2014 Antitrust Civil Litigation Forum Held in Beijing

On May 24-25, 2014, *2014 Antitrust Civil Litigation Forum*, co-held by Competition Law Center of University of International Business and Economics and ICT Industry Competition Laboratory, and supported by Intellectual Property Tribunal of Supreme People's Court, was held in Beijing. The attendees, in perspective of law, economics, and society, had an in-depth discussion on topics such as "Judicial Regulation on Vertical Restraints", "Regulation of IP and Antitrust" and "Competition Analysis of MFN and Cases". More than 200 people, including Prof. Huang Yong, Vice Chair of the Expert Advisory Board of the State Council Anti-Monopoly Commission, more than 30 judges from the Supreme People's Court and high people's court and intermediate people's court from provinces and cities such as Beijing, Shanghai, Jiangsu and Guangdong, Mr. Douglas H. Ginsburg, Senior Judge from US Court of Appeals for the District Columbia Circuit, Prof. William Kovacic from George Washington University attended the meeting.

For details, please visit: <http://theory.people.com.cn/n/2014/0528/c40534-25076325.html>

### “中国体育反垄断第一案”二审在广东高院开庭

2014年5月13日,“广东粤超公司起诉广东省足协垄断”一案的二审在广东省高院开庭。诉讼双方围绕着“广东省足协是否可以和商家签订独家经营协议”等焦点问题展开辩论。2009年7月,因认为省足协与珠超公司签订的《新广东省室内五人制足球联赛协议书》具有排他性,限制了竞争,粤超公司状告广东省足协,外界将此案称为“中国体育反垄断第一案”。

详细信息: <http://sports.sina.com.cn/c/2012-08-09/14476181199.shtml>

### Guangdong High Court Hears “China's First Sports Antitrust Case”

On May 13, 2014, the second instance of Guangdong Yuechao Company's litigation against Guangdong Football Association was trialed in Guangdong high people's court. The parties opened a debate around issues such as “whether Guangdong Football Association can reach exclusive operation agreement with business entity”. In July 2009, alleging that the *New Futsal League of Guangdong Province Agreement* reached between Guangdong Football Association and Guangdong Zhuchao Company is exclusive and has restricted competition, Guangdong Yuechao Company brought an action against Guangdong Football Association. The case is covered by media as “China's first sport antitrust case”.

For details, please visit: <http://sports.sina.com.cn/c/2012-08-09/14476181199.shtml>

## 学术活动 Academia

### 第三届中国竞争政策论坛在北京举行

2014年5月21日至23日,由国务院反垄断委员会专家咨询组、美国律师协会反垄断法分会、对外经济贸易大学竞争法中心联合主办的第三届中国竞争政策论坛在北京举行。商务部副部长房爱卿,国务院反垄断委员会专家咨询组组长张穹,国务院反垄断委员会专家咨询组副组



长、对外经济贸易大学教授黄勇、中国三家反垄断执法机构负责人，美国、德国、澳大利亚等 8 家国外竞争主管机构部长以及来自全球的学者、实务界人士出席了本届论坛。在为期三天的会议中，与会嘉宾围绕反垄断法实施中的十余个议题，尤其是对“竞争政策对建立统一、开放、竞争、有序市场体系的作用”、“反垄断执法与知识产权保护的协调”、“经营者集中审查的关键问题”这三个议题展开了广泛而深入的讨论。

详细信息：<http://epaper.legaldaily.com.cn/fzrb/content/20140528/Articel09002GN.htm>

### **The Third “Antitrust in Asia: China” Forum Held in Beijing**

From May 21 to 23, 2014, the third “Antitrust in Asia: China” forum co-held by Expert Advisory Board of the State Council Anti-Monopoly Commission, Antitrust Section of American Bar Association and Competition Law Center of University of International Business and Economics was held in Beijing. Fang Aiqing, deputy minister of MOFCOM, Zhang Qiong, the leader of Expert Advisory Board of the State Council Anti-Monopoly Commission, Prof. Huang Yong of University of International Business and Economics, heads of the three anti-monopoly law enforcement authorities in China, eight ministers of foreign competition authorities from America, Germany and Australia etc., and academics and professionals all around the world attended the forum. During the three-day conference, the attendees had an extensive and profound discussion on more than ten topics, especially for the topics of “Function of Competition Policy to Setting up a Unified, Open, Competitive and Orderly Market System”, “The Coordination of the Anti-monopoly Law Enforcement and Protection of Intellectual Property Rights” and “The Key Issues of Merger Review”

For details, please visit:

<http://epaper.legaldaily.com.cn/fzrb/content/20140528/Articel09002GN.htm>

### **中韩反垄断与知识产权会议在北京举行**

2014 年 5 月 24 日，由中国人民大学经济法研究中心和韩国高丽大学创新、竞争与规制法中心联合创办的中韩市场暨规制法研究中心(MRLC)在北京成立。同日，由该研究中心举办的“全球 IT 产业重组走势与中韩规制应对——以反垄断和知识产权为中心”首个国际会议在京召开。来自中国、韩国、日本、美国反垄断协会、欧盟竞争委员会、佛罗里达大学法学院的学者和政府部门代表约 150 余人出席了会议。

详细信息：<http://epaper.legaldaily.com.cn/fzrb/content/20140526/Articel06009GN.htm>

### **China-Korea Antitrust and Intellectual Property Rights Conference Held in Beijing**

On May 24, 2014, China-Korea Market and Regulation Law Center which co-founded by Economic Law Research Center of Renmin University of China and ICR Center of Korea University was founded in Beijing. On the same day, the first international conference “Recent Trend of IT Industry Restructuring Worldwide & Regulatory Protection of Korea and China---with an Emphasis on Antitrust and IPR” held by this Center was held in Beijing. More than 150 people, including academics of China, Korea, Japan, American Antitrust Institute, European Union Competition Commission and Florida's law school and representatives of government attended the conference.

For details, please visit:

<http://epaper.legaldaily.com.cn/fzrb/content/20140526/Articel06009GN.htm>

## 团队动态 Dacheng Team

### 大成律师事务所与律商联讯联合举办反垄断专题网络研讨会

2014年5月15日，大成律师事务所与 LexisNexis 律商联讯联合举办反垄断调查、合规与最新发展专题网络研讨会。大成律师事务所反垄断团队的邓志松律师与戴健民律师就反垄断行政调查及企业应对、反垄断合规体系构建、并购反垄断申报及反垄断若干问题进行了深入探讨。

### Antitrust Web Seminar Co-held by LexisNexis and Dacheng

On May 15, 2014, Dacheng Law Offices and LexisNexis co-held the Antitrust Investigation, Compliance and Recent Development Web Seminar. Jet Deng and Ken Dai of antitrust team in Dacheng Law Offices conducted in-depth discussions on the topics of Administrative Procedures of Anti-Monopoly Investigation and Guidelines for Enterprises to Deal with the Investigation, Antitrust Compliance Program Establishment and Anti-Monopoly Notification for M&A etc.

### 大成反垄断团队评论文章被知名法律信息库头条推荐

2014年5月26日，荷兰威科集团旗下的知名法律信息库——威科先行法律信息库在专业文章栏目公布了由邓志松律师与戴健民律师共同撰写的反垄断双语专文《IDC案中调查，高通何去何从？》(What is Antitrust From IDC to Qualcomm?), 并在主动推送给其客户的威科每日资讯邮件中对该文进行了头条推荐。

详细信息:

[http://law.wkinfo.com.cn/document/showarticle?language=%E4%B8%AD%E6%96%87&collection=article&aid=NjAwMDAwMDgzOTM%253D&sysLang=zh\\_HANS\\_CN&free=0&searchKeys=&bid=&showType=](http://law.wkinfo.com.cn/document/showarticle?language=%E4%B8%AD%E6%96%87&collection=article&aid=NjAwMDAwMDgzOTM%253D&sysLang=zh_HANS_CN&free=0&searchKeys=&bid=&showType=)

### Commentary of Dacheng Antitrust Team is recommend as Headline by Kluwer

On May 26, 2014, Kluwer Legal Information Database--- well-known legal database of the Dutch Kluwer Group division published the bilingual article "What is Antitrust From IDC to Qualcomm?" co-authored by Jet Deng and Ken Dai, and recommended as headline in Kluwer Daily News to their clients.

For details, please visit:

[http://law.wkinfo.com.cn/document/showarticle?language=ENGLISH&collection=article&aid=NjAwMDAwMDgzOTQ%253D&sysLang=zh\\_HANS\\_CN&free=0&searchKeys=&bid=&showType=](http://law.wkinfo.com.cn/document/showarticle?language=ENGLISH&collection=article&aid=NjAwMDAwMDgzOTQ%253D&sysLang=zh_HANS_CN&free=0&searchKeys=&bid=&showType=)