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## 中国反垄断法律资讯：2015 年 10 月

## China Monthly Antitrust Update: October 2015

本资讯仅提供一般性信息，因此不应被视作某种形式的法律建议。如果您有任何具体问题，请与我们联系。

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

### 国家发改委：知识产权反垄断指南或月底成型

国家发改委 9 月 22 日组织召开知识产权滥用反垄断指南第二次讨论会，针对知识产权权利人市场支配地位的确认、高价许可费等问题，由来自国内外律师事务所、行业协会、内外资企业、专家学者等共 50 多名代表进行了讨论，预计将于 10 月底初步成型。与会人员就知识产权滥用反垄断领域的重要问题展开了深入讨论，包括涉及知识产权的相关市场应如何界定；如何认定不公平的过高许可费；涉及知识产权的市场支配地位如何认定；标准必要专利具有的特殊性，包括权利人申请禁令可能产生的竞争问题，应如何规制；专利经营实体可能产生的竞争问题；是否有必要设立安全港制度，应如何进行制度安排；专利池可能产生哪些竞争问题，指南应持怎样的态度；如何认定行使知识产权的行为构成反垄断法上的滥用等问题。详细信息：

[http://dz.jckb.cn/www/pages/webpage2009/html/2015-09/23/content\\_10410.htm#rd?sukey=3fed89b912c7bbb288e02bcaea0e0d2c06795acfb597c9cbbe0f62f9b7129561d2718af72bb096936956fb20a150279a](http://dz.jckb.cn/www/pages/webpage2009/html/2015-09/23/content_10410.htm#rd?sukey=3fed89b912c7bbb288e02bcaea0e0d2c06795acfb597c9cbbe0f62f9b7129561d2718af72bb096936956fb20a150279a)

### NDRC: Antitrust Guidelines on IPR May Take Shape in October

On September 22, National Development and Reform Commission ("NDRC") organized and convened the second symposium regarding the Antitrust Guidelines on Abuse of Intellectual Property Right ("IPR"), targeting issues such as the determination of dominant market position of an IPR holder and the excessive royalties. More than 50 representatives from local and international law firms, trade associations, domestic and foreign enterprises, and experts and scholars joined the discussion. It is predicted that the guidelines will be preliminary shaped at the end of October. Attendees had a deep discussion concerning several important issues of abuse of IPR in antitrust area, including: how to define relevant market where IPR is involved; how to determine unfairly high royalty; how to determine the dominant market position concerning IPR; how to regulate standard essential patents in consideration of their particularities, including potential competitive concerns resulting from application of injunctions by IPR holders; competitive concerns triggered by patent operating entities; whether it is necessary to establish safe harbor and how to design it; potential competitive problems triggered by patent pools and the appropriate attitude of the guidelines; how to determine whether an IPR exercise constitutes abuse within the meaning of the Anti-Monopoly Law ("AML").

For details, please visit:

[http://dz.jckb.cn/www/pages/webpage2009/html/2015-09/23/content\\_10410.htm#rd?sukey=3fed89b912c7bbb288e02bcaea0e0d2c06795acfb597c9cbbe0f62f9b7129561d2718af72bb096936956fb20a150279a](http://dz.jckb.cn/www/pages/webpage2009/html/2015-09/23/content_10410.htm#rd?sukey=3fed89b912c7bbb288e02bcaea0e0d2c06795acfb597c9cbbe0f62f9b7129561d2718af72bb096936956fb20a150279a)

### 国务院将竞争法修改列入 2015 年立法工作计划

2015 年 9 月 2 日，国务院办公厅在其网站上公布了《国务院 2015 年立法工作计划》，该计划将 2015 年的法律制定和法律修订工作分为四类，一、全面深化改革和全面依法治国急需的项目；二、力争年内完成的项目；三、预备项目；四、研究项目。其中《反不正当竞争法》的修订列于第三类预备项目中，由工商总局负责起草；《价格法》和《反垄断法》的修订列

于第四类研究项目中,《价格法》由发改委负责起草,《反垄断法》由商务部、发改委和工商总局负责起草。

详细信息: [http://www.gov.cn/zhengce/content/2015-09/02/content\\_10127.htm#rd](http://www.gov.cn/zhengce/content/2015-09/02/content_10127.htm#rd)

### State Council Lists Competition Laws in the 2015 Legislation Work Agenda

On September 2, 2015, the General Office of the State Council issued the "2015 Legislation Work Agenda of the State Council" on its website. According to the plan, the work on drafting and amending of laws in 2015 were classified into four categories: first, laws requiring urgent drafting or revision; second, laws requiring drafting or revision by the end of this year; third, laws with drafting or revision at a preparatory stage; fourth, laws where drafting or revision is being studied. Among those mentioned above, the amending of the Anti-Unfair Competition Law is put under the third category, namely the preparatory stage, which would be drafted by the State Administration for Industry and Commerce ("SAIC"). Besides, the amending of the Price Law and the AML is under the fourth category, and the Price Law would be drafted by NDRC, while the AML would be jointly drafted by the Ministry of Commerce ("MOFCOM"), NDRC and SAIC.

For details, please visit: [http://www.gov.cn/zhengce/content/2015-09/02/content\\_10127.htm#rd](http://www.gov.cn/zhengce/content/2015-09/02/content_10127.htm#rd)

### 上海发改委发布自贸区中小企业垄断协议豁免指导意见

9月23日,上海市发展和改革委员会发布了《中国(上海)自由贸易试验区中小企业垄断协议豁免指导意见(试行)》。该文件对适用范围、中小企业的认定标准、申请豁免的条件等方面进行了规定。该文件自9月23日起试行,试行期为两年。

详细信息:

[http://www.shdrc.gov.cn/main?main\\_colid=319&top\\_id=312&main\\_artid=26593#rd&sukey=e74171513d3453dd34eb4719fa8d31444f59bd92917c437f5ee36c0cf86efc297cca6533c5b4b7f006eff7c87e5da23f](http://www.shdrc.gov.cn/main?main_colid=319&top_id=312&main_artid=26593#rd&sukey=e74171513d3453dd34eb4719fa8d31444f59bd92917c437f5ee36c0cf86efc297cca6533c5b4b7f006eff7c87e5da23f)

### Shanghai DRC Issues Monopoly Agreement Exemption Guidelines for Small and Medium-sized Companies in Shanghai Pilot Free Trade Zone

On September 23, Shanghai Municipal Development and Reform Commission ("Shanghai DRC") published the Shanghai Free Trade Zone Small and Medium-sized Companies' Monopoly Agreements Exemption Guidelines (Interim). This document contains such provisions as the scope of application, the standards for small and medium-sized companies and the conditions on application for exemption. The document came into operation as from September 23 and will be implemented on a trial basis for two years.

For details, please visit:

[http://www.shdrc.gov.cn/main?main\\_colid=319&top\\_id=312&main\\_artid=26593#rd&sukey=e74171513d3453dd34eb4719fa8d31444f59bd92917c437f5ee36c0cf86efc297cca6533c5b4b7f006eff7c87e5da23f](http://www.shdrc.gov.cn/main?main_colid=319&top_id=312&main_artid=26593#rd&sukey=e74171513d3453dd34eb4719fa8d31444f59bd92917c437f5ee36c0cf86efc297cca6533c5b4b7f006eff7c87e5da23f)

### 天津自贸试验区反垄断工作办法出台

9月23日,天津市发展改革委、市商务委、市市场监管委联合印发《中国(天津)自由贸易试验区反垄断工作办法》(“《办法》”),并将于10月15日起在天津自贸试验区内正式施行。根据《办法》要求,自贸试验区将设立反垄断工作协调办公室,市反垄断执法机构和该办公室均可受理自贸试验区内反垄断举报和咨询,并在本市反垄断执法机构之间建立会商、信息沟通

和案件线索移交等长效机制。自贸试验区管委会三个派出机构也将分别设立办事窗口，协助反垄断办公室工作，为区内企业提供一站式服务。

详细信息：[http://www.gov.cn/xinwen/2015-09/23/content\\_2937179.htm#rd](http://www.gov.cn/xinwen/2015-09/23/content_2937179.htm#rd)

### Measures for the Anti-monopoly Enforcement in Tianjin Pilot Free Trade Zone Issued

On September 23, Tianjin Development and Reform Commission, Commerce Commission and Market Supervision Committee jointly issued the Measures for the Anti-monopoly Enforcement in China (Tianjin) Pilot Free Trade Zone ("Measures"), which will be officially enforced in Tianjin Pilot Free Trade Zone on October 15. In accordance with the Measures, Tianjin Pilot Free Trade Zone will set up an anti-monopoly coordination office. Both this office and the municipal antitrust enforcement authorities can accept the anti-monopoly complaint and consultation. Meanwhile, the Measures establish a long-term mechanism such as conference consultation, information exchange and transfer of case clues. The three branch agencies of the Management Committee of Pilot Free Trade Zone will also set up the "working windows" to assist the work of the anti-monopoly coordination office to provide the one-stop service for the enterprises in the Free Trade Zone.

For details, please visit: [http://www.gov.cn/xinwen/2015-09/23/content\\_2937179.htm#rd](http://www.gov.cn/xinwen/2015-09/23/content_2937179.htm#rd)

## 执法机构 Authorities

### 国家工商总局与俄罗斯联邦反垄断局签署合作交流谅解备忘录

9月21日至25日，受俄罗斯联邦反垄断局邀请，中国国家工商总局副局长刘玉亭率团参加在俄罗斯首都莫斯科举办的“俄罗斯竞争周”系列活动。23日，受国家工商总局局长张茅委托，刘玉亭出席庆祝俄罗斯联邦反垄断机构成立25周年大会并致辞。刘玉亭在致辞中代表中国国家工商总局对俄罗斯联邦反垄断机构成立25周年及其在反垄断立法和执法领域取得的成就表示祝贺，并介绍了工商总局在反垄断与反不正当竞争领域所开展的立法、执法工作，回顾了工商总局在竞争执法领域开展的国际合作，特别是中俄交流合作所取得的丰硕成果。期间，刘玉亭分别出席金砖国家竞争机构高层会晤、中国国家工商总局与俄罗斯联邦反垄断局双边高层会谈，并与俄方代表签署了双方2016至2017年度合作谅解备忘录。

详细信息：

[http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201509/t20150929\\_162392.html#rd?sukey=e74171513d3453dd296f32f08cfa7c6ad7df993fc691206707b623077c1d886a5be71443ff49773d3576a3ae14cfa26d](http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201509/t20150929_162392.html#rd?sukey=e74171513d3453dd296f32f08cfa7c6ad7df993fc691206707b623077c1d886a5be71443ff49773d3576a3ae14cfa26d)

[http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201509/t20150928\\_162043.html#rd?sukey=e74171513d3453dde12dd652a2fa049cff66730b2a630809e57671f2a5f8b10f29a9c0ff2b5e4d3b75012ff525a8690c](http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201509/t20150928_162043.html#rd?sukey=e74171513d3453dde12dd652a2fa049cff66730b2a630809e57671f2a5f8b10f29a9c0ff2b5e4d3b75012ff525a8690c)

### SAIC Signs the Memorandum of Understanding with Federal Antimonopoly Service of Russia

From September 21 to 25, as invited by Federal Antimonopoly Service (FAS) of Russia, the Vice Minister of SAIC, Mr. Liu Yuting attended the "Russian Competition Week" held in Moscow. On September 23, entrusted by the Minister of SAIC Mr. Zhang Mao, Mr. Liu Yuting presented at the meeting of 25<sup>th</sup> anniversary of the establishment of FAS of Russia and delivered a speech. Mr. Liu



Yuting represented SAIC to express the congratulations on the achievements FAS obtained in the antitrust legislation and enforcement during the past 25 years. Mr. Liu Yuting also introduced the antitrust legislation and enforcement activities carried out by SAIC and retrospected the international cooperation launched by SAIC in the competition law enforcement, especially the fruitful results achieved from the Sino-Russia cooperation. During the visit, Mr. Liu Yuting presented at high-level meetings with competition authorities of BRICS countries as well as with FAS and signed the Memorandum of Understanding (2016-2017) with Russian representatives.

For details, please visit:

[http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201509/t20150929\\_162392.html#rd?sukey=e74171513d3453dd296f32f08cfa7c6ad7df993fc691206707b623077c1d886a5be71443ff49773d3576a3ae14cfa26d](http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201509/t20150929_162392.html#rd?sukey=e74171513d3453dd296f32f08cfa7c6ad7df993fc691206707b623077c1d886a5be71443ff49773d3576a3ae14cfa26d) and  
[http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201509/t20150928\\_162043.html#rd?sukey=e74171513d3453dde12dd652a2fa049cff66730b2a630809e57671f2a5f8b10f29a9c0ff2b5e4d3b75012ff525a8690c](http://www.saic.gov.cn/ywdt/gsyw/zjyw/xxb/201509/t20150928_162043.html#rd?sukey=e74171513d3453dde12dd652a2fa049cff66730b2a630809e57671f2a5f8b10f29a9c0ff2b5e4d3b75012ff525a8690c)

### 中国反垄断三部门与美国工商界代表举行反垄断执法对话

9月10日，商务部、发展改革委、工商总局等中方反垄断执法机构与美国工商界代表就反垄断执法问题举行对话会。商务部国际贸易谈判副代表张向晨出席会议并讲话。双方就中国反垄断执法工作情况和美国工商界具体关注进行了深入交流。

详细信息：<http://www.mofcom.gov.cn/article/ae/ai/201509/20150901109048.shtml#rd>

### The Three Chinese Antitrust Authorities holds Antitrust Enforcement Dialogue with US Business Representatives

On September 10, a meeting on antitrust enforcement was held between Chinese antitrust authorities (including MOFCOM, NDRC and SAIC) and US business representatives. Deputy International Trade Representative of MOFCOM, Mr. Zhang Xiangchen presented at the meeting and made a speech. The two sides conducted a profound communication on Chinese antitrust enforcement and the specific concerns of the US business community.

For details, please visit:

<http://www.mofcom.gov.cn/article/ae/ai/201509/20150901109048.shtml#rd>

## 行政调查 Public Enforcement

### 广东省发改委对东风日产价格垄断协议行为处以 1.2 亿元罚款

近日，广东省发展改革委依法对东风日产汽车垄断案作出行政处罚，对东风日产汽车销售有限公司（“东风日产”）罚款 1.233 亿元，对广州地区 17 家经销商罚款 1912 万元。经查，东风日产与其广东省内经销商达成并实施了固定汽车转售价格的垄断协议，违反了《反垄断法》第十四条的规定，排除、限制了相关市场的竞争，损害了消费者利益。另查明，自 2012 年 4 月至 2014 年 7 月，广州区域经销商在东风日产广州地区协力会组织下，多次召开会议，达成并实施了固定相关车型价格的垄断协议，违反了《反垄断法》第十三条的规定。

详细信息：

[http://210.76.65.10:9000/pub/gdsfgw2014/zwgk/gzdt/gzyw/201509/t20150910\\_328993.html#rd?sukey=b0cb5c5b9e50130348e31a0aabd7902dadba0307e6df1267fa0bc03ad0faba5f75fd064017bc8668bfdfe0f8ada97273](http://210.76.65.10:9000/pub/gdsfgw2014/zwgk/gzdt/gzyw/201509/t20150910_328993.html#rd?sukey=b0cb5c5b9e50130348e31a0aabd7902dadba0307e6df1267fa0bc03ad0faba5f75fd064017bc8668bfdfe0f8ada97273)

### **Guangdong DRC Fines Dongfeng-Nissan RMB 120 Million for its Price Monopoly Agreement**

Recently, Guangdong Provincial Development and Reform Commission (“Guangdong DRC”) made an administrative decision that fined Dongfeng-Nissan RMB 123.3 million for its monopolistic conducts, and fined its 17 distributors in Guangdong Province RMB 19.12 million. According to Guangdong DRC’s investigation, Dongfeng-Nissan has conducted monopoly agreements to maintain the resale price of automobiles with its distributors in Guangdong, which has violated Article 14 of the AML, and resulted in exclusion and restriction of competition in the relevant market and harmed the interest of consumers. Besides, it is found that from April 2012 to July 2014, several meetings between distributors were held and organized under a cooperation association and certain monopoly agreements were reached in regard to maintaining the prices of relevant vehicle models, which has violated Article 13 of the AML.

For details, please visit:

[http://210.76.65.10:9000/pub/gdsfgw2014/zwgk/gzdt/gzyw/201509/t20150910\\_328993.html#rd?sukey=b0cb5c5b9e50130348e31a0aabd7902dadba0307e6df1267fa0bc03ad0faba5f75fd064017bc8668bfdfe0f8ada97273](http://210.76.65.10:9000/pub/gdsfgw2014/zwgk/gzdt/gzyw/201509/t20150910_328993.html#rd?sukey=b0cb5c5b9e50130348e31a0aabd7902dadba0307e6df1267fa0bc03ad0faba5f75fd064017bc8668bfdfe0f8ada97273)

### **国家工商总局公布中国移动通信集团内蒙古有限公司垄断行为案**

经国家工商行政管理总局授权，内蒙古自治区工商行政管理局于 2014 年 4 月对中国移动通信集团内蒙古有限公司涉嫌垄断行为进行立案调查，于 2015 年 9 月 1 日对该公司作出中止调查决定。根据该决定，中国移动通信集团内蒙古有限公司对手机上网套餐数据流量实行“月末清零”，涉嫌滥用市场支配地位。

详细信息：

[http://www.saic.gov.cn/zwgk/gggs/jzzf/201509/t20150917\\_161790.html#rd?sukey=e74171513d3453ddb43c4edaa15664843d6b5e74b64b0a2370c9a7f7fb94c8c367d124375a8928d21d2b39029d53af29](http://www.saic.gov.cn/zwgk/gggs/jzzf/201509/t20150917_161790.html#rd?sukey=e74171513d3453ddb43c4edaa15664843d6b5e74b64b0a2370c9a7f7fb94c8c367d124375a8928d21d2b39029d53af29)

### **SAIC Publishes Decision on the Monopolistic Behavior of China Mobile Communications Corporation Inner Mongolia Branch**

Authorized by SAIC, the Inner Mongolia Administration for Industry and Commerce initiated an investigation on the monopolistic behavior of China Mobile Communications Corporation Inner Mongolia Branch in April 2014, and decided to suspend the investigation on 1 September 2015. According to the decision, China Mobile was suspected of abusing its dominant market position by engaging in automatic expiration of unused data each month for the mobile Internet surfing packages.

For details, please visit:

[http://www.saic.gov.cn/zwgk/gggs/jzzf/201509/t20150917\\_161790.html#rd?sukey=e74171513d3453ddb43c4edaa15664843d6b5e74b64b0a2370c9a7f7fb94c8c367d124375a8928d21d2b39029d53af29](http://www.saic.gov.cn/zwgk/gggs/jzzf/201509/t20150917_161790.html#rd?sukey=e74171513d3453ddb43c4edaa15664843d6b5e74b64b0a2370c9a7f7fb94c8c367d124375a8928d21d2b39029d53af29)



## 经营者集中 Merger Control

### 商务部九月份公布 16 起简易案件

截至 2015 年 9 月 30 日，商务部九月份在其网站上公布的简易案件数量达到 16 起，简易案件总量达 251 起。

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

### MOFCOM Releases 16 Streamlined Cases in September

Up to September 30, 2015, MOFCOM released 16 streamlined cases in September on its website, with total amount reaching 251 so far.

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

### 百视通和微软等 6 家公司因违反《反垄断法》受到商务部行政处罚

9 月 29 日，商务部反垄断局公布了对四起案件的行政处罚书，涉案的百事通和微软等 6 家公司均因违反《反垄断法》，未依法向商务部申报实施经营者集中，分别被处以 15 万至 20 万元罚款。

详细信息：

<http://fldj.mofcom.gov.cn/article/ztxx/#rd?sukey=e74171513d3453dd3d5b1dd6acb7509c0c5beccac8d6e44f6dbb85258e5ac506e25c6469778c35d8d9695d394e55992a>

### Six Companies Including BesTV and Microsoft Fined by MOFCOM for Breach of the AML

On September 29, the Anti-Monopoly Bureau under MOFCOM published administrative penalty decisions for four cases. Six companies including BesTV and Microsoft were imposed a fine from RMB 150,000 to RMB 200,000 respectively for failing to comply with the AML and make notification to MOFCOM prior to the implementation of concentrations.

For details, please visit:

<http://fldj.mofcom.gov.cn/article/ztxx/#rd?sukey=e74171513d3453dd3d5b1dd6acb7509c0c5beccac8d6e44f6dbb85258e5ac506e25c6469778c35d8d9695d394e55992a>

## 学术动向 Academia

### “反垄断法实施的域外经验与中国路径”国际学术研讨会在杭州举行

9 月 23 日，由浙江理工大学和浙江省法学会共同主办的“反垄断法实施的域外经验与中国路径”国际学术研讨会在杭州举行。来自商务部、发展改革委、工商总局等国家反垄断执法机构官员以及国内外百余位反垄断法学者和专家与会，共同探讨反垄断法实施中的热点、难点以及实践中的经验教训等法律问题。

详细信息：

[http://hzdaily.hangzhou.com.cn/mrsb/html/2015-09/24/content\\_2077459.htm#rd?sukey=e74171513d3453dd6c7d07c32ec4a89f681df1353fab1c7c3c36c0ac98c450d060b8c3473a4506750b8908c3628ceb13](http://hzdaily.hangzhou.com.cn/mrsb/html/2015-09/24/content_2077459.htm#rd?sukey=e74171513d3453dd6c7d07c32ec4a89f681df1353fab1c7c3c36c0ac98c450d060b8c3473a4506750b8908c3628ceb13)

**“Foreign Experience of Antitrust Enforcement and Chinese Path” International Academic Seminar Held in Hang Zhou**

On September 23, the “Foreign Experience of Antitrust Enforcement and Chinese Path” International Academic Seminar cosponsored by Zhejiang Science and Technology University and the Law Institute of Zhejiang Province was held in Hang Zhou. The officials from MOFCOM, NDRC and SAIC and the nearly 100 scholars and experts on antimonopoly law at home and abroad attended the seminar to discuss the hot topics and difficult points in antitrust enforcement as well as the lessons from practice.

For details, please visit:

[http://hzdaily.hangzhou.com.cn/mrsb/html/2015-09/24/content\\_2077459.htm#rd?sukey=e74171513d3453dd6c7d07c32ec4a89f681df1353fab1c7c3c36c0ac98c450d060b8c3473a4506750b8908c3628ceb13](http://hzdaily.hangzhou.com.cn/mrsb/html/2015-09/24/content_2077459.htm#rd?sukey=e74171513d3453dd6c7d07c32ec4a89f681df1353fab1c7c3c36c0ac98c450d060b8c3473a4506750b8908c3628ceb13)

**南京大学举办“垄断行业改革：竞争与规制”国际学术研讨会**

2015年9月21—22日，南京大学中德法学研究所、德国阿登纳基金会、中国经济法学研究会竞争法学专业委员会共同主办的“垄断行业改革：竞争与规制”国际学术研讨会在南京举行。来自商务部、国家发改委、柏林自由大学、德国拜罗伊特大学、德国霍恩海姆大学、香港中文大学、香港岭南大学、台湾中央研究院、中国人民大学、中国社会科学院、北京大学、上海交通大学、武汉大学、安徽大学、上海财经大学等50余名国内外理论与实务界代表汇聚一堂，围绕会议主题展开了深入的研讨，对于正确认识竞争与规制的关系、运用竞争法与规制法的基本理念和制度建设推动垄断行业改革有重要意义。在会议第三部分“竞争执法对垄断行业改革的影响”环节中，邓志松律师发表了评论，从政府和市场关系重塑的维度，进行了系统的思考。

详细信息：

<http://mp.weixin.qq.com/s?biz=MzA3NTMwMTkxNA==&mid=214771914&idx=1&sn=1a28370ddf8d5a35df7d749c42ab9531#rd>

**Nanjing University Holds “Monopoly Industry Reform: Competition and Regulation” International Academic Seminar**

From September 21 to 22, the “Monopoly Industry Reform: Competition and Regulation” International Academic Seminar cosponsored by DCIR of Nanjing University, Konrad-Adenauer Stiftung and Competition Law Commission of China Economic Law Research Association institute was held in Nanjing. More than 50 representatives in theory and practice circles such as MOFCOM, NDRC, Free University of Berlin, University of Bayreuth, University of Hohenheim, Chinese University of Hong Kong, Hong Kong Lingnan University, Academia Sinica, Renmin University of China, Chinese Academy of Social Sciences, Peking University, Shanghai Jiaotong University, Wuhan University, Anhui University, Shanghai University of Finance and Economics etc., attended the seminar and had a deep discussion around the conference theme, which has a great significance for understanding the relationship between competition and regulation and pushing forward the reform of monopoly industry with the basic idea and system of competition law. In the third round of the meeting, regarding the “Influence of Competition Law Enforcement to the Reform of Monopoly Industry”, Jet Deng made remarks from the perspective of remodeling the relationship between government and market.

For details, please visit:

[http://mp.weixin.qq.com/s?\\_biz=MzA3NTMwMTkxNA==&mid=214771914&idx=1&sn=1a28370ddf8d5a35df7d749c42ab9531#rd](http://mp.weixin.qq.com/s?_biz=MzA3NTMwMTkxNA==&mid=214771914&idx=1&sn=1a28370ddf8d5a35df7d749c42ab9531#rd)

### 2015 知识产权与反垄断高峰论坛：全方位披露反垄断执法数据

2015 年 9 月 12 日至 13 日，由中国知识产权法学研究会主办的“2015 知识产权与反垄断高峰论坛”在京召开。根据本次论坛以及之前有关会议披露的信息，大成反垄断团队对中国反垄断法生效七年以来的立法、执法、司法情况简要归纳如下：

#### 国家发改委：

国家发改委及地方价格主管部门调查并已作出执法决定的反垄断案件有 55 件，包括国家发改委查处案件 16 件，地方价格主管部门查处案件 39 件。

国家发改委牵头制定的 6 部反垄断指南争取在今年年底形成初稿并于 2016 年 6 月完成。

此外，国家发改委正在研究制定“公平竞争审查制度”，争取在今年年底出台，将对竞争政策和其他国家政策建立协调机制。

#### 商务部：

商务部共审结经营者集中案件 1143 件（截至 2015 年 6 月 30 日），其中无条件批准 1117 件，禁止 2 件，附条件批准 24 件。对于 24 件附条件批准的案件，其中有 6 件已经监督执行完毕。截至今年 9 月，商务部已经调查了 50 多起违反反垄断法的经营者集中行为，其中 31 起案件已经调查完毕，对 11 件案件进行了处罚，涉及到 17 家企业。这些企业中既有国有企业，也有民营企业和外资企业。

商务部正在研究修改经营者集中申报办法和审查办法，争取在今年年底完成。

#### 国家工商总局：

国家工商总局和省级工商机关共立案查处涉嫌垄断行为案件 54 件，包括涉嫌垄断协议案件 31 件，涉嫌滥用市场支配案件 23 件，目前已结案 23 件。国家工商总局直接调查的案件有 3 件，其他案件由 19 个省级工商机关分别处理。

国家工商总局颁布了《关于禁止滥用知识产权排除、限制竞争行为的规定》，已于今年 8 月 1 日生效。

#### 法院：

全国人民法院处理的反垄断民事诉讼案件稳步增长，2008/2009 年共有 10 件，2010 年 33 件，2011 年 48 件，2012 年 55 件，2013 年 72 件，2014 年 86 件。

详细信息：

[http://mp.weixin.qq.com/s?\\_biz=MzA3NTMwMTkxNA==&mid=214199884&idx=1&sn=9ce140bc79b44564946e168647492f81#rd](http://mp.weixin.qq.com/s?_biz=MzA3NTMwMTkxNA==&mid=214199884&idx=1&sn=9ce140bc79b44564946e168647492f81#rd)

### 2015 Intellectual Property and Antitrust Forum: Comprehensive Disclosure of Antitrust Enforcement Figures

On September 12 and 13, “2015 Intellectual Property and Antitrust Forum” was held by China Intellectual Property Law Society (“CIPLS”) in Beijing. According to the information disclosed in this meeting and released before, Dacheng Antitrust Team summarized the legislature, executive and judiciary of the AML during the 7 years since it became effective as follows:

#### NDRC

The number of antitrust cases investigated and concluded by NDRC and local price competent authorities is 55, 16 of which were investigated and punished by NDRC, and the rest 39 were conducted by local price competent authorities.

The drafting of six antitrust guidelines led by NDRC is expected to be completed before June 2016.

The “Fair Competition Review Mechanism” is under study and formulation, and it is predicted to be finished within 2015.

**MOFCOM**

1143 cases of concentration of undertakings were reviewed and closed by MOFCOM (as of June 30, 2015), 1117 of which were approved without any condition, 2 of which were prohibited and 24 of which were approved conditionally.

MOFCOM has investigated more than 50 cases of concentration of undertakings which violated the AML, 31 of which have been closed already and among which punishment decisions have been made in 11 cases, involving 17 undertakings.

The amendment of the measures for notification and review of concentration of undertakings is ongoing, and it is predicted to be finished within 2015.

**SAIC**

The number of cases investigated and punished by SAIC and provincial administration for industry and commerce is 54, including 31 cases involving monopoly agreements, 23 cases involving abuse of dominant market position. 23 cases have been concluded up to now.

The Provisions on the Prohibition of Abuse of Intellectual Property Rights to Eliminate or Restrict Competition was enacted, which came into operation on August 1, 2015.

**People's Court**

Antitrust civil litigations heard by the people's courts are increasing steadily, with a number of 10 in 2008/2009, 33 in 2010, 48 in 2011, 55 in 2012, 72 in 2013 and 86 in 2014.

For details, please visit:

[http://mp.weixin.qq.com/s?\\_\\_biz=MzA3NTMwMTkxNA==&mid=214199884&idx=1&sn=9ce140bc79b44564946e168647492f81#rd](http://mp.weixin.qq.com/s?__biz=MzA3NTMwMTkxNA==&mid=214199884&idx=1&sn=9ce140bc79b44564946e168647492f81#rd)

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## **团队动态 Dacheng Team**

### **大成反垄断团队举办“反垄断法最新发展及实务交流研讨会”**

9月28日,大成反垄断团队主办的“反垄断法最新发展及实务交流研讨会”在大成律师事务所北京办公室举行。大成反垄断团队邀请到我国反垄断执法机构的主要负责人、欧洲知名反垄断法教授燕尼斯·凯苏罗卡斯发表主题演讲,并与邓志松律师、戴健民律师一起,就有关反垄断法的实务问题进行交流 and 研讨。

### **Dacheng Antitrust Team Holds “Seminar on the Latest Development of the Anti-Monopoly Law and Its Practice”**

On September 28, the “Seminar on the Latest Development of the Anti-Monopoly Law and Its Practice” hosted by Dacheng Antitrust Team was held in the Beijing office of Dacheng Law Offices. Dacheng Antitrust Team invited the principal official from China's antitrust enforcement authorities as well as a famous professor Yannikatsoulacos from European competition law academia to deliver a keynote speech and they also joined Jet Deng and Ken Dai to communicate and discuss on several practical issues in the AML.

### **邓志松律师参加国家发改委“知识产权领域反垄断指南”起草工作会议并发表专业意见**

9月22日,国家发改委召开专家会议讨论“知识产权领域反垄断指南”的起草工作,会议主

要听取了各有关方面对于指南起草的意见和建议，并对下一步工作作出安排。大成反垄断团队邓志松律师也应邀参加了此次研讨会，并发表专家意见。

**Jet Deng Shares Opinions in NDRC's Meeting on the Antitrust Guidelines for IPR**

On September 22, 2015, NDRC held an expert meeting to discuss the drafting of the Antitrust Guidelines on Abuse of Intellectual Property Right. NDRC solicited comments and suggestions from the attenders, and made arrangement for the next work. Jet Deng was also invited to participate in the meeting where he shared his professional opinions.

**邓志松律师参加国家发改委“汽车领域反垄断指南”起草工作会议并发表专业意见**

9月11日，国家发改委召开专家会议讨论“汽车领域反垄断指南”的起草工作，会议主要听取了各有关方面对于指南起草的意见和建议，并对下一步工作作出安排。大成反垄断团队邓志松律师也应邀参加了此次研讨会，并发表专家意见。

**Jet Deng Shares Opinions in NDRC's Meeting on the Antitrust Guidelines for Auto Industry**

On September 11, 2015, NDRC held an expert meeting to discuss the drafting of the Antitrust Guidelines for Auto Industry. NDRC solicited comments and suggestions from the attenders, and made arrangement for the next work. Jet Deng was also invited to participate in the meeting where he shared his professional opinions.