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中国反垄断法律资讯：2014 年 9 月

China Monthly Antitrust Update: September 2014

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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

工商总局公告停止实施汽车总经销商和汽车品牌授权经销商备案工作

2014 年 8 月 1 日，工商总局在其网站上公布，为使市场在资源配置中起决定性作用和更好发挥政府作用，自 2014 年 10 月 1 日起，停止实施汽车总经销商和汽车品牌授权经销商备案工作，这代表着经销商经营现状利好，工商总局简政放权。

详细信息：http://www.saic.gov.cn/zwgk/zyfb/zjwj/scgfgls/201408/t20140801_147256.html

SAIC's Announces to Suspend Record-Filing for General Automobile Distributor and Automobile Brand Distributor

On August 1, 2014, State Administration for Industry and Commerce ("SAIC") released on its website that, in order to make market play a decisive role in resource allocation, the record-filing for general automobile distributor and automobile brand distributor would be suspended, which means the operation situation is heading positively for distributors and the administrative simplification of SAIC.

For details, please visit:

http://www.saic.gov.cn/zwgk/zyfb/zjwj/scgfgls/201408/t20140801_147256.html

执法机构 Authorities

国务院新闻办召开发布会 国家工商总局局长发言

2014 年 8 月 26 日，在国务院新闻办召开的发布会上，国家工商总局局长张茅透露，作为承担反垄断的市场监管部门，国家工商总局主要承担查办违法利用垄断支配地位的案件，今年以来一共受理了 9 件反垄断案，涉及面也十分广泛。张茅同时透露，国家工商总局对微软涉嫌信息公开不完全案件，已进入深入调查阶段，接下来对于阶段性的进展会陆续向社会公布。

详细信息：

<http://mp.weixin.qq.com/s?biz=MzA3NTMwMTkxNA==&mid=201925296&idx=3&sn=ac9f276227b54a93228ad0348c63b919#rd>

State Council Information office Holds a News Conference and SAIC DG Gives Presentations

On August 26, 2014, in news conference held by the State Council Information Office, Zhang Mao, the Director General of SAIC disclosed that as the market supervision department for anti-monopoly, the SAIC is mainly responsible for cases involved with abuse of dominant market place and SAIC has accepted 9 anti-monopoly cases this year which covered a wide range of fields. He also disclosed that the case of Microsoft has been moved to an in-depth investigation and the periodic progress will be published successively.

For details, please visit:

<http://mp.weixin.qq.com/s?biz=MzA3NTMwMTkxNA==&mid=201925296&idx=3&sn=ac9f276227b54a93228ad0348c63b919#rd>

郑文副局长会见希捷科技公司代表和乌拉尔钾肥公司代表

2014年8月13日,商务部反垄断局郑文副局长会见了来访的希捷科技公司首席财务官 Patrick J.O' Malley III 和高级副总裁兼总法律顾问 Kenneth M.Massaroni。双方就希捷科技公司申请解除商务部 2011 年第 90 号公告所附义务等事宜交换了意见。2014 年 8 月 15 日,郑文副局长会见了来访的乌拉尔钾肥公司代表。双方就乌拉尔钾肥公司履行商务部 2011 年第 33 号公告所附义务等事宜交换了意见。

详细信息: <http://fldj.mofcom.gov.cn/article/xxfb/201408/20140800699700.shtml>
<http://fldj.mofcom.gov.cn/article/xxfb/201408/20140800696442.shtml>

MOFCOM Deputy DG Meets Representatives of Seagate Technology LLC and OAO Uralkali

On August 13, 2014, Deputy Director-General of Anti-Monopoly Bureau ("AMB") under the Ministry of Commerce ("MOFCOM"), Mr. Zheng Wen met Mr. Patrick J.O' Malley III, the CFO and Mr. Kenneth M.Massaroni, the SVP & General Counsel of Seagate Technology LLC. The two parties exchanged opinions on the application for releasing the obligations imposed under Announcement No. 90, 2011 by MOFCOM. On August 15, 2014, Mr. Zheng Wen met the representatives of OAO Uralkali. The two parties exchanged opinions on implementation of obligations imposed under Announcement No. 33, 2011, by MOFCOM.

For details, please visit: <http://fldj.mofcom.gov.cn/article/xxfb/201408/20140800699700.shtml>
<http://fldj.mofcom.gov.cn/article/xxfb/201408/20140800696442.shtml>

行政调查 Public Enforcement

高通公司就发改委反垄断调查关注的问题提出改进措施

2014年8月21日,美国高通公司总裁 Derek Aberle 第四次率团队到国家发展改革委,就反垄断调查处理方案与发改委价格监督检查与反垄断局许昆林局长交换了意见。高通公司表示,愿意就国家发展改革委7月11日公布的调查关注的问题作出改进,将进一步努力寻求最终解决方案。

详细信息: http://www.sdpc.gov.cn/fzgggz/jgidyfld/jjszhdt/201408/t20140822_623268.html

Qualcomm Proposes Improvement Measures on Issues Focused by Antitrust Investigation of NDRC

On August 8, 2014, Mr. Derek Aberle, Qualcomm CEO, leading the delegation, paid a fourth visit to National Development and Reform Commission ("NDRC") to exchange views with Mr. Xu Kunlin, Director General of the Price Supervision and Anti-Monopoly Bureau ("PSAMB") of NDRC on solutions of antitrust investigation. Qualcomm indicated that it was willing to make improvements for issues focused by investigation released on July 11 by NDRC, making further effort for final solution.

For details, please visit:

http://www.sdpc.gov.cn/fzgggz/jgidyfld/jjszhdt/201408/t20140822_623268.html

日本十二家企业实施汽车零部件和轴承价格垄断被国家发展改革委罚款 12.35 亿元

2014 年 8 月 20 日, 国家发展改革委在其网站上公布, 对日本住友等八家零部件企业价格垄断行为依法处罚 8.3196 亿元, 对日本精工等四家轴承企业价格垄断行为依法处罚 4.0344 亿元, 合计罚款 12.354 亿元, 并将对本次调查过程中发现的其他违法线索继续深入开展调查。

详细信息: http://www.sdpc.gov.cn/fzgggz/jgdyfld/jjszhd/201408/t20140820_622757.html

NDRC Fines Twelve Japanese Car Parts and Bearing Firms RMB 1.23Billion for Price Fixing

On August 20, 2014, NDRC released on its website that eight Japanese car parts makers including Sumitomo, and four Japanese bearings suppliers including NSK had struck price-fixing agreements, fined RMB 831.96m and RMB 403.44m respectively, RMB 1.23bn in total. Further investigation will focus on other illegal clues discovered in this investigation.

For details, please visit:

http://www.sdpc.gov.cn/fzgggz/jgdyfld/jjszhd/201408/t20140820_622757.html

湖北开出汽车反垄断首张罚单 四家宝马经销商被罚 162 万

2014 年 8 月 13 日下午, 湖北省物价局召开“宝马提醒告诫会”。宣布对省内 4 家宝马经销商处以 93.79 万至 15 万元不等的罚款, 共计 162.67 万元。据悉, 这是湖北汽车领域开出的首张反垄断罚单, 同时也是全国汽车领域内开出的首张反垄断罚单。

详细信息: <http://www.hb.chinanews.com/news/2014/0814/183337.html>

First Ticket in Motor Anti-Monopoly Case Is Given in Hubei with BMW's Distributors Being Fined for RMB 1.62 Million.

In the afternoon of August 13, 2014, Hubei Price Bureau held a meeting warning against BMW and announced a total fine of RMB 1.6267 million to the 4 distributors of BMW, ranging from RMB 937.9 thousand to 150 thousand. It is learned that the fine is the first anti-monopoly ticket in motor field in Hubei as well as the nation.

For details, please visit: <http://www.hb.chinanews.com/news/2014/0814/183337.html>

工商总局突袭搜查微软及其财务外包公司埃森哲

2014 年 8 月 6 日, 工商总局组织由北京、辽宁、福建、湖北等 4 省市工商执法人员对微软公司在中国大陆的一个经营场所(望京)、一个其他有关场所, 即微软(中国)有限公司尚未完成检查的部门和人员和承担微软公司财务外包的埃森哲信息技术(大连)有限公司同时进行突击检查。

详细信息: <http://www.yicai.com/news/2014/08/4004550.html>

SAIC Raids Microsoft and Its Outsourcing Company Accenture

On August 6, 2014, SAIC led its law enforcement officers in Beijing, Liaoning, Fujian and Hubei and raided Microsoft's business operation site in Chinese mainland (Wangjing), where some departments and personnel had remained uninvestigated, and simultaneously its outsourcing financial company, Accenture Information Technology Co., Ltd.

For details, please visit: <http://www.yicai.com/news/2014/08/4004550.html>

民事诉讼 Private Actions

云南昆明审理中国石油系统现首例反垄断案

2014 年 7 月 30 日，云南昆明市中院开庭审理了中国石油系统首例反垄断案。因为中石化拒绝销售公司生产的生物柴油，云南盈鼎作为一家民企将中石化以及中石化云南分公司一纸诉状告上了法庭。根据云南盈鼎的诉求，希望中石化按照《可再生能源法》规定，将盈鼎公司符合国家标准的生物柴油纳入其销售体系，并赔偿经济损失 300 万元。

详细信息：<http://finance.irj.com.cn/2014/08/16162017825277.shtml>

The First Anti-Monopoly Case in China's Petroleum Industry is on Trial in Kunming, Yunan

On July 30, 2014, the first anti-monopoly case in China's petroleum industry was heard in public in the intermediate people's court of Kunming, Yunan. The plaintiff, a private firm named Yingding, filed a suit against Sinopec and its branch in Yunan for their refusal to sell the plaintiff's petroleum. According to Yingding's appeal, it demands Sinopec to sell its qualified petroleum in accordance with the Renewable Energy Law and claimed for compensation of RMB 3 million.

For details, please visit: <http://finance.irj.com.cn/2014/08/16162017825277.shtml>

团队动态 Dacheng Team

邓志松律师接受《21 世纪经济报道》、香港《南华早报》、《新华网》、《第一财经日报》、《南方周末》等媒体采访 就汽车反垄断发表观点

2014 年 8 月，邓志松律师接受了《21 世纪经济报道》、香港《南华早报》、《新华网》、《第一财经日报》、《南方周末》等媒体的采访，对现阶段中国反垄断状况，垄断行为的认定以及汽车反垄断相关问题进行了深入剖析。邓律师指出我国的反垄断执法正在与国际接轨，将为不同所有制市场主体营造公平竞争的市场环境发挥重要作用。

详细信息：http://epaper.21cbh.com/html/2014-08/27/content_109568.htm?div=-1

Jet Deng Airs Views on Motor Anti-Monopoly on 21st Century Economic Report, South China Morning Post, Xinhuanet, First Financial Daily and Southern Weekly

In August, 2014, Jet Deng was interviewed by *21st Century Economic Report*, *South China Morning Post*, *Xinhuanet*, *First Financial Daily*, *Southern Weekly* and other media. He expressed his opinions towards the current anti-monopoly situation and made deep analysis into the related questions about the definition of anti-monopoly conduct and the issues related to motor anti-monopoly. Jet Deng also pointed out that the anti-monopoly enforcement in China is catching up with the international speed which will play an important role in creating a fair competition environment for diversified market entities.

For details, please visit: http://epaper.21cbh.com/html/2014-08/27/content_109568.htm?div=-1

邓志松律师接受《中国青年报》采访 就密集反垄断发表观点

2014 年 8 月 19 日，邓志松律师接受《中国青年报》记者采访，对近期一系列反垄断案件的特征进行了剖析。邓志松律师分析了目前反垄断密集执法的原因并对被调查的企业回应行为提出相关建议，并指出在未来，中国的反垄断执法会更加频繁并成为常态。

详细信息: http://article.cyol.com/news/content/2014-08/19/content_10533414.htm

Jet Deng Airs View on Intensive Law Enforcement on China Youth Daily

On August 19, 2014, Jet Deng was interviewed by the reporter from *China Youth Daily* and analysed recent anti-monopoly cases. He explained the reason for the intensive law enforcement and gave some advice for the enterprises under investigation to respond to the authorities. He also pointed out that the future will see a more frequent law enforcement which will be a normal situation.

For details, please visit: http://article.cyol.com/news/content/2014-08/19/content_10533414.htm