



DACHENG
LAW
OFFICES

大成律师事务所

www.dachenglaw.com

中国反垄断法律资讯：2015 年 6 月 China Monthly Antitrust Update: June 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.

微信公众号名称：“反垄断实务评论”

微信号：Antitrust_Review

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。



联系方式 Contact Information

北京办公室 Beijing Office

邓志松 Jet Deng/Partner

电话 Tel.: 010- 5813 7038

邮箱 Email: zhisong.deng@dachenglaw.com

上海办公室 Shanghai Office

戴健民 Ken Dai/Partner

电话 Tel.: 021- 5878 1965

邮箱 Email: jianmin.dai@dachenglaw.com



DACHENG
LAW
OFFICES

目录 Contents

立法动态 Legislation	3
工商总局已完成《反不正当竞争法》修订稿	3
SAIC Completes the Revised Draft of the Law of the People's Republic of China Against Unfair Competition	3
国家发改委酝酿制定《汽车反垄断指南》	3
NDRC Considers to Enact Antitrust Guidelines for Auto Industry	3
福建物价局颁发《中国（福建）自由贸易试验区反价格垄断工作办法》	3
Fujian Provincial Price Bureau Releases Anti-price Monopoly Measures of the China (Fujian) Pilot Free Trade Zone	3
执法机构 Authorities	4
国家发改委价监局与美国智库专家就反垄断领域议题进行交流	4
PSAMB of NDRC Communicates with Experts of US Think-tank on Antitrust Issues	4
国务院同意发改委深化改革工作的意见，反垄断改革进一步深化	4
The State Council Agrees NDRC's Opinion on Work on Deepening Reform and the Antitrust Reform Further Deepened	4
商务部反垄断局局长尚明赴加拿大、美国开展反垄断工作交流	4
Shang Ming, Director General of the AMB under MOFCOM Visits Canada and the US for Antitrust Work Communication	4
行政调查 Public Enforcement	5
江苏省物价局公布奔驰垄断案行政处罚决定书	5
Jiangsu Provincial Price Bureau Releases the Written Decision of Administrative Penalty of Mercedes-Benz Antitrust Case	5
民事诉讼 Private Actions	5
斯维尔诉广东省教育厅行政垄断案二审于 5 月 28 日在广东开庭	5
The Administrative Litigation of Thsware vs. Department of Education of Guangdong Province Heard on May 28 for Second Instance	5
米时科技诉奇虎 360 二审败诉	6
Emiage Loses its Second Trial against Qihoo 360	6
经营者集中 Merger Control	6
商务部五月份公布 20 起简易案件	6
MOFCOM Releases 20 Streamlined Cases in May	6
学术动向 Academia	6
美中贸易全国委员会发布《中国竞争政策及执法报告》，评论中国反垄断执法	6
USCBC Releases Update Report on Competition Policy & Enforcement in China to Comment on Antitrust Enforcement	6
团队动态 Dacheng Team	7
戴健民律师应邀赴日本参加全球竞争法论坛并发表主题演讲	7
Ken Dai Attends Global Competition Law Forum and Gives a Key note Speech	7
邓志松律师就网络提速降费发表评论	7
Jet Deng Comments on Network Speed Increase and Network Tariff Reduce	7

立法动态 Legislation

工商总局已完成《反不正当竞争法》修订稿

《反不正当竞争法》在实施 22 年之后，即将迎来首次大修。2015 年 5 月 30 日，据报道称国家工商总局已完成《反不正当竞争法》修订稿，并待时机成熟时上报国务院法制办。

详细信息: <http://money.163.com/15/0530/00/AQQTVCIV00253B0H.html#rd>

SAIC Completes the Revised Draft of the Law of the People's Republic of China Against Unfair Competition

Twenty-two years after its implementation, the *Law of the People's Republic of China against Unfair Competition* will be revised for the first time. On May 30, 2015, it was reported that the State Administration for Industry and Commerce ("SAIC") had already completed the revised draft, and will submit it to the Legislative Affairs Office of the State Council ("SCLAO") at a proper time.

For details, please visit: <http://money.163.com/15/0530/00/AQQTVCIV00253B0H.html#rd>

国家发改委酝酿制定《汽车反垄断指南》

日前，国家发改委反垄断执法部门正在筹备《汽车反垄断指南》制定的准备工作，主要是对汽车业反垄断的合规引导。5 月 23 日，有消息透露，该指南已通过国务院反垄断委员会批准，并将于今年 6 月中旬正式启动制定工作。

详细信息: http://auto.takungpao.com/q/2015/0601/3015748_3.html - rd

NDRC Considers to Enact Antitrust Guidelines for Auto Industry

Recently, NDRC is making preparations for the enactment of *Antitrust Guidelines for Auto Industry*, which mainly guides the compliance of auto enterprises. On May 23, 2015, it was said that the Guidelines had already been approved by the State Council Anti-Monopoly Commission, and the enactment would be officially started in June 2015.

For details, please visit: http://auto.takungpao.com/q/2015/0601/3015748_3.html#rd

福建物价局颁发《中国（福建）自由贸易试验区反价格垄断工作办法》

近日，福建省物价局印发了《中国（福建）自由贸易试验区反价格垄断工作办法》。该办法自 2015 年 5 月 1 日起施行，规定了为防止福建自贸试验区内价格垄断行为，管委会可在试验区内受理反价格垄断举报和咨询，并应当为举报人保密。

详细信息: http://www.fj.xinhuanet.com/news/2015-05/15/c_1115290450.htm#rd

Fujian Provincial Price Bureau Releases Anti-price Monopoly Measures of the China (Fujian) Pilot Free Trade Zone

Recently, Fujian Provincial Price Bureau released *Anti-price Monopoly Measures of the China (Fujian) Pilot Free Trade Zone* (the "Measures"), which took effect on May 1, 2015. The Measures provide that the administration commission is empowered to accept anti-price monopoly tip-offs and inquires in order to prevent price monopoly conduct in Free Trade Zone ("FTZ") and should maintain the confidentiality of the person making such report.

For details, please visit: http://www.fj.xinhuanet.com/news/2015-05/15/c_1115290450.htm#rd

执法机构 Authorities

国家发改委价监局与美国智库专家就反垄断领域议题进行交流

2015 年 5 月 20 日，价监局卢延纯副巡视员在委内会见了美国彼得森国际经济研究所资深研究员 Jeff Scott 和哈佛大学肯尼迪政府管理学院 Robert Lawrence 教授一行。双方就反垄断领域的有关议题进行了交流。

详细信息: http://jjs.ndrc.gov.cn/gzdt/201505/t20150521_692725.html

PSAMB of NDRC Communicates with Experts of US Think-tank on Antitrust Issues

On May 20, 2015, Lu Yanchun, the deputy-inspector of Price Supervision and Anti-Monopoly Bureau ("PSAMB") of NDRC met a delegation led by Jeff Scott, a senior researcher of Peter G. Peterson Institute for International Economics and Professor Robert Lawrence from Harvard Kennedy School of Government. Both parties communicated relevant issues in antitrust field.

For details, please visit: http://jjs.ndrc.gov.cn/gzdt/201505/t20150521_692725.html

国务院同意发改委深化改革工作的意见，反垄断改革进一步深化

2015 年 5 月 18 日，据中国政府网消息，国务院同意了国家发改委《关于 2015 年深化经济体制改革重点工作的意见》（“《意见》”），意见围绕深化教育、医药卫生、文化、收入分配、社会保障、住房等领域改革等 39 条内容，10 大方面进行明确规定。反垄断工作方面，《意见》提出废除妨碍全国统一市场和公平竞争的各种规定。

详细信息: http://www.gov.cn/zhengce/content/2015-05/18/content_9779.htm#rd

The State Council Agrees NDRC's Opinion on Work on Deepening Reform and the Antitrust Reform Further Deepened

On May 18, 2015, it is reported by gov.cn that the *State Council agreed Opinions on Key Work on Deepening Economic System Reform in 2015* (the "Opinions") enacted by National Development and Reform Commission ("NDRC"), which regulates on 10 aspects, including 39 articles of deepening reforms in education, medicine and health, culture, income distribution, social insurance and housing. In the aspect of antitrust work, the Opinions suggested to abolish regulations which obstruct unified domestic market and fair competition.

For details, please visit: http://www.gov.cn/zhengce/content/2015-05/18/content_9779.htm#rd

商务部反垄断局局长尚明赴加拿大、美国开展反垄断工作交流

2015 年 5 月 14 日至 20 日，反垄断局尚明局长率团赴加拿大、美国开展反垄断工作交流。在访问加拿大期间，代表团与加拿大竞争局签署了《中华人民共和国商务部与加拿大竞争局关于反垄断合作的谅解备忘录》。访问美国期间，代表团与美国司法部、联邦贸易委员会举行了工作会谈。

详细信息: <http://fldj.mofcom.gov.cn/article/xxfb/201505/20150500987415.shtml>

Shang Ming, Director General of the AMB under MOFCOM Visits Canada and the US for Antitrust Work Communication

From May 14, 2015 to May 20, 2015, a delegation led by Shang Ming, Director General of the Anti-Monopoly Bureau ("AMB") under the Ministry of Commerce ("MOFCOM"), paid visits to the

US and Canada for antitrust work communication. During the visit to Canada, the delegation signed *Memorandum of Understanding on Antitrust Cooperation between Canada and the People's Republic of China* with Competition Bureau of Canada. During the visit to the US, the delegation held meetings with representatives of the US Department of Justice and the Federal Trade Commission.

For details, please visit: <http://fldj.mofcom.gov.cn/article/xxfb/201505/20150500987415.shtml>

行政调查 Public Enforcement

江苏省物价局公布奔驰垄断案行政处罚决定书

江苏省物价局于 2015 年 5 月 18 日在其官网公布奔驰垄断案行政处罚决定书，披露了奔驰垄断案中当事人的违法详情。主要违法事实为达成限价销售的垄断协议并付诸实施。调查显示，早在 2010 年，奔驰汽车就对省内经销商转售奔驰汽车相关配件的最低价格进行限定，根据事故车、停产车型、在产车型等不同情况，分别实行不得低于 7 折、8 折、9 折的限价政策。

详细信息: <http://www.jswj.gov.cn/>

Jiangsu Provincial Price Bureau Releases the Written Decision of Administrative Penalty of Mercedes-Benz Antitrust Case

On May 18, 2015, Jiangsu Provincial Price Bureau released the written decision of administrative penalty of Mercedes-Benz antitrust case on its official website, in which the details of the monopolistic conducts of Mercedes-Benz were disclosed. The main monopolistic conducts include reaching and implementing a monopolistic agreement of fixing price. Certain investigation shows that early in 2010, Mercedes-Benz fixed the minimum resale price of Benz cars at 70%, 80% and 90% of the tag price for dealers in Jiangsu, respectively on vehicles which had traffic accident, vehicles out of production and vehicles in production.

For details, please visit: <http://www.jswj.gov.cn/>

民事诉讼 Private Actions

斯维尔诉广东省教育厅行政垄断案二审于 5 月 28 日在广东开庭

2015 年 5 月 20 日，广东省高级人民法院对深圳市斯维尔科技有限公司诉广东省教育厅行政垄断案该案发出开庭通知，决定于 2015 年 5 月 28 日开庭。

详细信息: <http://news.163.com/15/0529/06/AQOU5V3V00014AED.html#rd>

The Administrative Litigation of Thsware vs. Department of Education of Guangdong Province Heard on May 28 for Second Instance

On May 20, 2015, Guangdong High Court released notice of trial of anti-monopoly administrative litigation by Shenzhen Tsinghua Sware Software Hi-Tech Co., Ltd. ("Thsware") against Department of Education of Guangdong Province, deciding that the case would be heard on May 28, 2015 for second instance.

For details, please visit: <http://news.163.com/15/0529/06/AQOU5V3V00014AED.html#rd>

米时科技诉奇虎 360 二审败诉

5月12日，米时公司律师透露，米时诉奇虎360公司滥用市场支配地位及不正当竞争纠纷一案二审已经宣判。北京市高级法院驳回了米时公司的二审请求，维持一审判决，认定奇虎公司不存在滥用市场支配地位及不正当竞争。米时公司表示难以接受二审的判决结果。

详细信息：<http://money.163.com/15/0513/12/APGEI9800253B0H.html#rd>

Emiage Loses its Second Trial against Qihoo 360

On May 12, 2015, the attorney of Emiage Company disclosed the result of second instance of Emiage vs. Qihoo 360 for anti-monopoly and anti-unfair competition, in which Beijing Supreme Court rejected all the requests of appeal of Emiage and affirmed the adjudication of the first instance. Emiage found the result hard to swallow.

For details, please visit: <http://money.163.com/15/0513/12/APGEI9800253B0H.html#rd>

经营者集中 Merger Control**商务部五月份公布 20 起简易案件**

截至 2015 年 5 月 31 日，商务部五月份在其网站上公布的简易案件数量达到 20 起，简易案件总量达 175 起。

详细信息：<http://fldj.mofcom.gov.cn/article/jyzjzjyajs/?2>

MOFCOM Releases 20 Streamlined Cases in May

Up to May 31, 2015, MOFCOM released 20 streamlined cases in May on its website, with total amount reaching 175 so far.

For details, please visit: <http://fldj.mofcom.gov.cn/article/jyzjzjyajs/?2>

学术动向 Academia**美中贸易全国委员会发布《中国竞争政策及执法报告》，评论中国反垄断执法**

美中贸易全国委员会近日发布《中国竞争政策及执法报告》，对中国过去一年的反垄断执法进行了评论。总体而言，该报告认为中国的反垄断执法在程序上已有若干改善，对中外企业并无明显区分；但在正当程序方面仍有改善空间，而且外资企业仍然受到一些不公平待遇，例如外资企业遭受着更高比例的罚款。

详细信息：<https://www.uschina.org/reports/update-competition-policy-enforcement-china#rd>

USCBC Releases Update Report on Competition Policy & Enforcement in China to Comment on Antitrust Enforcement

In May 2015, The US-China Business Council ("USCBC") published *Update Report on Competition Policy & Enforcement in China*, which commented on the antitrust enforcement of China in the preceding year. In summary, the report held the view that the procedure of antitrust enforcement in China has been improved to some extent, by treating foreign and domestic companies equally in competition enforcement. However, the process of law need to be further enhanced since

foreign companies were still reeling from unfair treatment. For example, foreign companies are being fined at a higher average rate than their domestic counterparts.

For details, please visit:

<https://www.uschina.org/reports/update-competition-policy-enforcement-china#rd>

团队动态 Dacheng Team

戴健民律师应邀赴日本参加全球竞争法论坛并发表主题演讲

5月21日,大成反垄断团队戴健民律师应邀赴日本出席全球竞争法论坛(Global Competition Law Forum),并以英文发表题为 Antitrust Regulation on SEP in China: Observation from Qualcomm Case 的专题演讲。同时,戴健民律师也作为中国的反垄断法专家,参加小组讨论,与来自日本及其他国家和地区的专家交流反垄断法在中国的快速发展。

Ken Dai Attends Global Competition Law Forum and Gives a Key note Speech

On May 21, 2015, Ken Dai, the partner of Dacheng Antitrust Team, was invited to participate in Global Competition Law Forum in Japan and delivered a keynote speech named Antitrust Regulation on SEP in China: Observation from Qualcomm Case. Ken Dai also took part in the group discussion with experts from Japan, and other countries and regions, exchanging views on the rapid development of antitrust law in China.

邓志松律师就网络提速降费发表评论

国务院办公厅5月20日印发了《关于加快高速宽带网络建设 推进网络提速降费的指导意见》,再次提出大幅提高网络速率,并就网络提速列出了一系列硬指标。大成反垄断团队邓志松律师表示,只有打破运营商的垄断局面,让其真正参与市场竞争,才能促使其主动提高网速、降低价格。

详细信息: http://finance.youth.cn/finance_IT/201505/t20150521_6658982.htm

Jet Deng Comments on Network Speed Increase and Network Tariff Reduce

On May 20, 2015, General Office of the State Council of the People's Republic of China issued *Guidelines on Speeding up the Constructions of High-speed Broadband Network and Promoting Network Speed Increase and Network Tariff Reduce*, which restated to significantly increase the network speed and listed a series of rigid targets on increasing the network speed. Jet Deng, the partner of Dacheng Antitrust Team said that, only when the monopoly of the network operators was broken and the network operator were forced to participate in the market competition, they are likely to increase network speed and reduce network tariff voluntarily.

For details, please visit: http://finance.youth.cn/finance_IT/201505/t20150521_6658982.htm