

C L I F F O R D
C H A N C E



ANTITRUST IN CHINA AND ACROSS THE REGION

QUARTERLY UPDATE

January to March 2018

CONTENTS

Introduction	3
Merger Control	4
Antitrust Investigations	7
Other Asia Pacific news in brief	9
Regional contacts	13



ANTITRUST IN CHINA AND ACROSS THE REGION

QUARTERLY UPDATE: JANUARY TO MARCH 2018

The main news coming out of China this quarter has been the decision to merge the current three antitrust agencies (NDRC, SAIC and MOFCOM) into a new authority called the State Administration of Market Supervision (SAMS). This body will be headed by Zhang Mao and Bi Jingquan and will also be responsible for regulating product quality supervision, food and drug administration and IP protection. SAMS has already been set up and will start operations shortly.

In terms of merger control in China, last quarter saw one deal cleared subject to remedies (Bayer/Monsanto); three more gun-jumping fines; the relaxation of two historic merger commitments (Henkel/Tiande and Media Tek/MStar); and a fine on Thermo Fisher for inadvertently infringing a condition of its 2014 acquisition of Life Technologies. NDRC and SAIC were also active, issuing a total of five infringement decisions, including a fine of over USD 1 million on a distributor of Vivo for resale price maintenance of smart phones.

Outside China, there have also been a number of notable developments. In Singapore, the newly named Competition **and Consumer** Commission of Singapore (CCCS) issued its first ever proposed interim measures directions seeking to maintain the independence of Uber and Grab pending its review of the merger of those two businesses. Similar measures were subsequently proposed by the Philippine Competition Commission (PCC), which has also made news this quarter by taking the unusual step of declaring the transfer of shares in a Dutch holding company void on the basis that the transfer should have been notified. Separately, the PCC has also raised the size of transaction filing threshold from PHP 1 billion to PHP 2 billion, which should reduce the number of deals notifiable there. Finally, in Japan, the JFTC disclosed that it will not take action against two international banks which colluded to fix the outcome of a tender related to US dollar denominated bonds on the grounds that the statute of limitation had expired. However, the banks were named in order to discourage others from doing likewise.

Contacts



RICHARD BLEWETT

Partner

Head of Antitrust, China

T +86 106535 2261

M +86 13910554829

E richard.blewett

@cliffordchance.com



DAVE PODDAR

Partner

Head of Antitrust, Asia Pacific

T +61 28922 8033

M +61 422800415

E dave.poddar

@cliffordchance.com



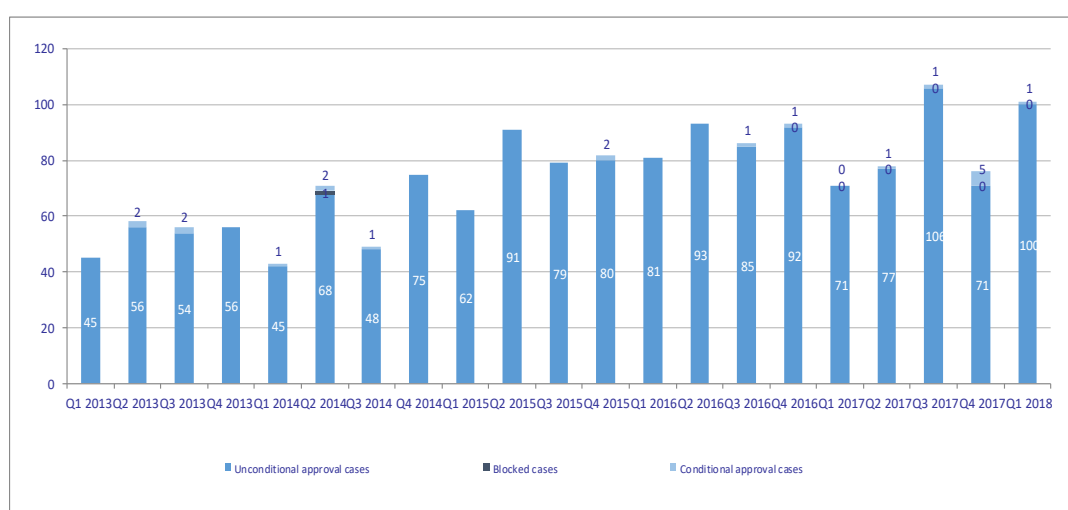


THE MINISTRY OF COMMERCE (MOFCOM)

How many cases have there been?

MOFCOM issued 101 merger decisions in the first quarter of 2018, an increase of 33% compared to the first quarter of 2017. Around 93 of these cases were notified under the simplified procedure. 100 cases were unconditionally cleared, while 1 case was conditionally approved.

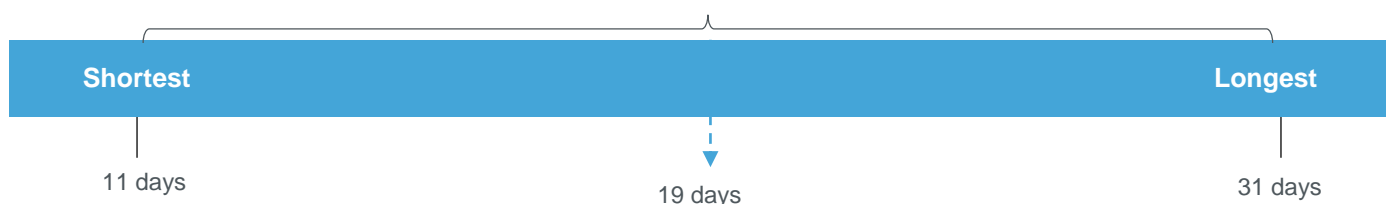
Merger control trends – Q1 2013 – Q1 2018



Simplified procedure: How quick is the review period?

Quarter	Average review period	Simplified procedure (%)	Cases exceeding 30 days
Q4 2015	27 days	81.7%	7
Q1 2016	27 days	74.1%	2
Q2 2016	26 days	82.8%	10
Q3 2016	25 days	75.6%	0
Q4 2016	25 days	77.4%	4
Q1 2017	25 days	81.7%	5
Q2 2017	23 days	66.7%	2
Q3 2017	20 days	82.2%	1
Q4 2017	21 days	76.3%	0
Q1 2018	19 days	92.1%	1

Q1 2018: Average

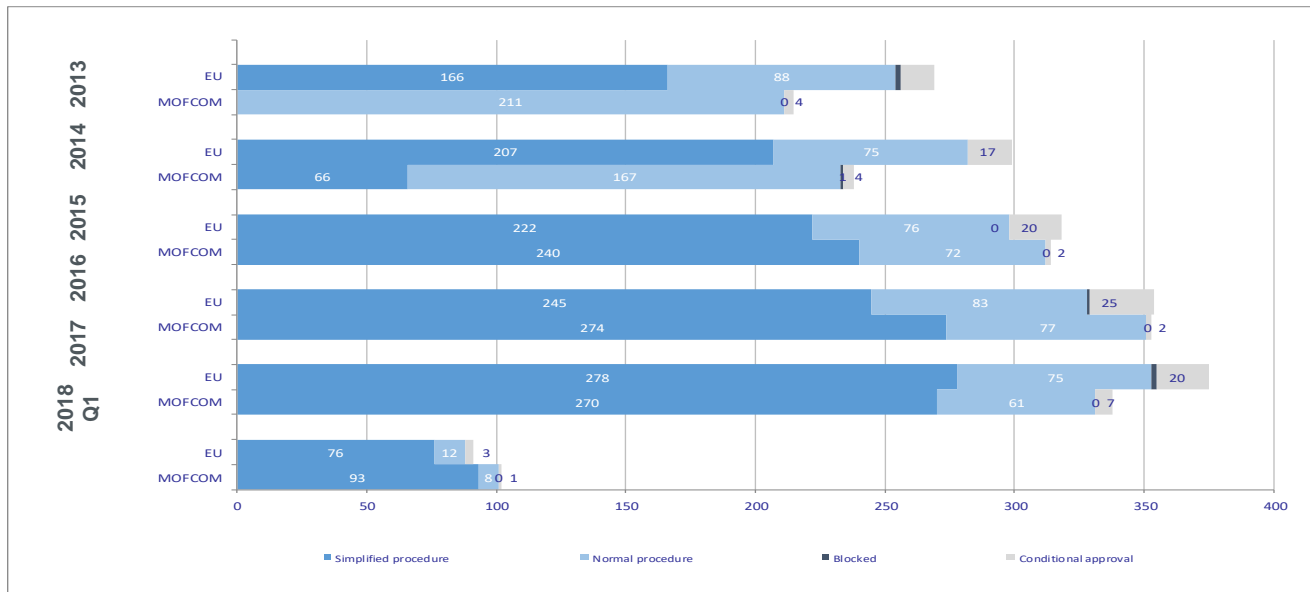




THE MINISTRY OF COMMERCE (MOFCOM)

How does China compare internationally?

Comparison with EU – 2013 – 2018



China will consolidate its three antitrust agencies

In March 2018, the National People's Congress approved a proposal to establish a new State Administration of Market Supervision ("**SAMS**"). The SAMS will consolidate the three antitrust agencies in China (which are currently within MOFCOM, NDRC and SAIC), and will also take charge of regulating product quality supervision, food and drug administration and IP protection. The SAMS will use the SAIC building in Beijing to accommodate the current antimonopoly officials within NDRC and MOFCOM. Currently, NDRC and SAIC both engage in antitrust investigations in China - SAIC covers non-pricing related antimonopoly agreements and conduct, while NDRC oversees price-related antimonopoly behaviour. Both NDRC and SAIC also carry out antitrust investigations through their respective local departments as well, which may also consider rolling out consolidation plans in the near future. In terms of MOFCOM's Anti-Monopoly Bureau, which conducts merger reviews, it is likely to maintain its independence within SAMS given the absence of overlaps with antitrust functions of NDRC and SAIC. In terms of new leaders, it was announced on 21 March 2018 that Zhang Mao, director of SAIC, will be the chief for the SAMS and Bi Jingquan, director of China Food and Drug Administration, will be the party secretary for the SAMS. The consolidation is expected to formally kick off from 20 April, with the process expected to be completed by the end of September 2018.

Thermo Fisher Scientific fined by MOFCOM for infringing a condition imposed upon its acquisition of Life Technologies in 2014

On 31 January 2018, MOFCOM fined Thermo Fisher Scientific ("**TFS**") RMB 150,000 (USD 23,824) for failure to comply with one of the conditions previously imposed upon TFS's acquisition of Life Technologies ("**LT**"). In 2014, this acquisition was approved by MOFCOM subject to conditions including, among others, to lower the catalogue prices of SSP kits and SDS PAGE Protein Standards sold in China by 1% annually, while not to reduce the discounts for Chinese dealers. TFS breached this condition in 2016 by unintentionally reducing its discounts below the required level. Given the absence of harm on customers and the compensation provided by TFS to the affected Chinese dealers in 2017, a relatively light fine was imposed by MOFCOM.

Conditions lifted in two of MOFCOM's conditionally approved cases

Henkel/Tiande Chemical

On 1 February 2018, MOFCOM announced it will waive the conditions it imposed on the formation of a JV between Henkel Hong Kong ("**Henkel**") and Tiande Chemical ("**Tiande**"). MOFCOM approved the deal in 2012 subject to conditions, including that Tiande is required to (i) supply ethyl cyanoacetate products on FRAND terms; (ii) no excessive pricing, no better terms to the JV; and (iii) no sharing of competitive information between Henkel and the JV. Given that (i) following completion of this deal, Henkel has transferred its shares in the JV to Tiande and as such Tiande has become the sole owner of the JV; and (ii) competition in the relevant market has intensified, MOFCOM has come to the view that lifting the conditions would be unlikely to give rise to any anti-competitive effects.

MediaTek/MStar Semiconductor

On 9 February 2018, MOFCOM announced it will waive the conditions it imposed on the merger between two Taiwanese chip suppliers MediaTek and MStar Semiconductor in 2013. The conditions include, among others, no cooperation between MediaTek and MStar Taiwan without the prior consent of MOFCOM and keeping MStar Taiwan as an independent market player. In the reassessment, MOFCOM found that the parties' combined share has dropped significantly and market entry is increasing. Further, customers are better able to switch to other chip suppliers, making them less dependent on the parties.

Further MOFCOM fines against failure to notify

On 31 January 2018, Grand Baoxin Auto Group and Beijing Yanbao Auto Service were each fined RMB 300,000 (USD 47,695) by MOFCOM for its failure to notify the joint acquisition of Sichuan Ganghong Enterprise Management. This acquisition was found to have met the Chinese merger filing thresholds. Even though the acquisition did not give rise to any anti-competitive effects, MOFCOM imposed a relatively heavy fine to each of the parties concerned as they had notified MOFCOM about other transactions and thus should be clearly aware of the merger filing obligation.

On 6 February 2018, Yihai Kerry and CJ Cheiljedang were each fined RMB 150,000 (USD 23,840) for failure to notify the formation of a joint venture ("**JV**") in 2011. The JV commenced its operation with a formal business license in 2011. The parties voluntarily reported their failure to file to MOFCOM.

On 6 February 2018, Shandong Sun Holding ("**SSH**") was fined RMB 300,000 (USD 47,695) by MOFCOM for failing to notify its acquisition of control (55% shareholding) in three target companies. Interestingly, SSH was aware of its filing obligation – it made an initial submission to MOFCOM in 2015 but was rejected due to the incompleteness of its filing documents. SSH filed with MOFCOM again in 2016 but it had already completed the acquisition by then. This was the 20th failure to file decision published by MOFCOM.

MOFCOM conditionally approves Monsanto/Bayer

On 13 March 2018, MOFCOM conditionally approved the merger between Bayer and Monsanto (together, the "**Parties**"). The Parties' activities mainly overlap in four areas – herbicides, seeds, traits and digital agriculture. More specifically, there are twelve overlapping products and three vertically linked products between the Parties' activities. Among these products, the relevant geographic market for trait and digital agriculture respectively is worldwide, whereas for each of the other relevant products the geographic market is China-wide. According to MOFCOM's competitive analysis, the proposed merger may eliminate or restrict competition in the Chinese markets for non-selective herbicide and vegetable seeds, including long-day onion seeds, chopped carrot seeds, and solanum lycopersicum (tomato) seeds, as well as the worldwide markets for corn, soybean, cotton, oilseed rape traits and digital agriculture. The conditions imposed by MOFCOM are (i) divestment of Bayer's global vegetable seed business; global non-selective herbicide business as well as global business for corn, soybean, cotton, and oilseed rape traits; (ii) allowing all Chinese agricultural application developers to connect their software with the parties' digital agricultural platform on FRAND terms; and (iii) allowing all Chinese users to register and employ the parties' digital agricultural products and applications within five years after the relevant products enter China. In March and April, the European Commission ("**EC**") and the US Department of Justice have also approved the merger, subject to similar conditions as China – the EC required the divestment of Bayer's global vegetable seed business, its global broadacre seeds and trait business, and its glufosinate assets and three important lines of research for non-selective herbicides, and licensing a copy of its worldwide offering and pipeline on digital agriculture to BASF.



THE NATIONAL DEVELOPMENT AND REFORM COMMISSION (NDRC)

Beijing Concrete Association fined for price-fixing

Beijing DRC published its RMB 500,000 (USD 76,835) fine upon Beijing Concrete Association ("**BCA**") for price-fixing on 8 January 2018, the maximum penalty that may be imposed on a trade association in China. BCA was found to have organized meetings among its members to facilitate the signing of a self-discipline agreement, aiming to fix the price of premixed concrete across Beijing. Further, the parties to the agreement also put in place mechanisms to monitor the implementation of the agreed prices. Beijing DRC is of the view that BCA's conduct significantly restricted competition in the concrete market in Beijing by discouraging market players to improve quality and reduce costs, and harming downstream customers' interest. When determining the fine, Beijing DRC took into account the following aggravating factors: (i) BCA took the lead in drafting the agreement and organizing the meetings; (ii) BCA abused its power of supervising the industry; and (iii) BCA was investigated by Beijing DRC in 2010 for similar conduct, which was suspended due to BCA's commitment to cease the alleged anti-competitive conduct.

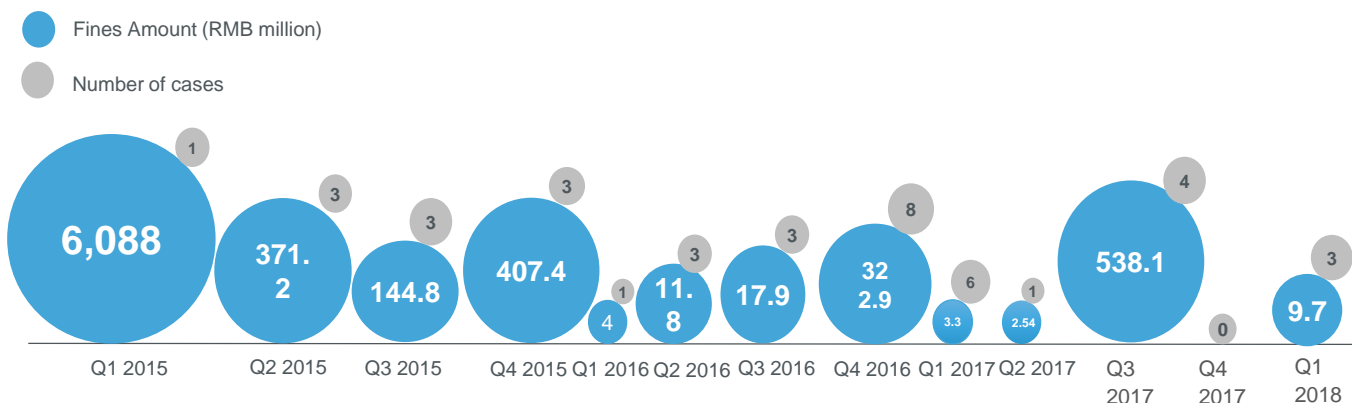
The first RPM fine in the Chinese smart-phone sector

In March 2018, Jiangsu Provincial Price Bureau fined one of the main distributors of Vivo RMB 6.98 million (USD 1.1 million) for alleged resale price maintenance ("**RPM**"). The agency reportedly commenced the investigation following a complaint about the price restrictions on wholesalers imposed by the Vivo distributor. The fine is equivalent to 1% of the distributor's total revenue in 2016. Notably, this is China's first price-related anti-monopoly case in the smart-phone sector.

13 civil defense equipment makers fined for price-fixing

On 26 March 2016, Shaanxi Provincial Price Bureau published a decision in which it imposed a fine of RMB 2.2 million (USD 350,000) on 13 civil air defense equipment companies for price-fixing. The agency found that these companies has held regular meetings to collectively fix the price of civil air defense doors since the second half of 2015. Moreover, in April 2016, these companies also set up a self-discipline platform and entered into three agreements to divide the market and further align prices. The agency has concluded that such conduct constitutes a horizontal anti-monopoly agreement and has given rise to anti-competitive effects in the relevant product market across Shaanxi province. The fine accounts for 1%-3% of the concerned companies' total revenue in 2016.

Enforcement trends – Q1 2015 to Q1 2018



Case	Date announced	Issue	Total fine (RMB '000)	Minimum (RMB '000)	Maximum (RMB '000)	% of Turnover	Leniency/Co-operation
Concrete Beijing DRC	1 January 2018	Price-fixing	500	N/A	N/A	N/A	No
Mobile phone Jiangsu Provincial Price Bureau	8 March 2018	RPM	6,980	N/A	N/A	1%	N/A
Civil defence equipment Shaanxi Provincial Price Bureau	26 March 2018	Price-fixing	2,200	N/A	N/A	1-3%	N/A



THE STATE ADMINISTRATION FOR INDUSTRY AND COMMERCE (SAIC)

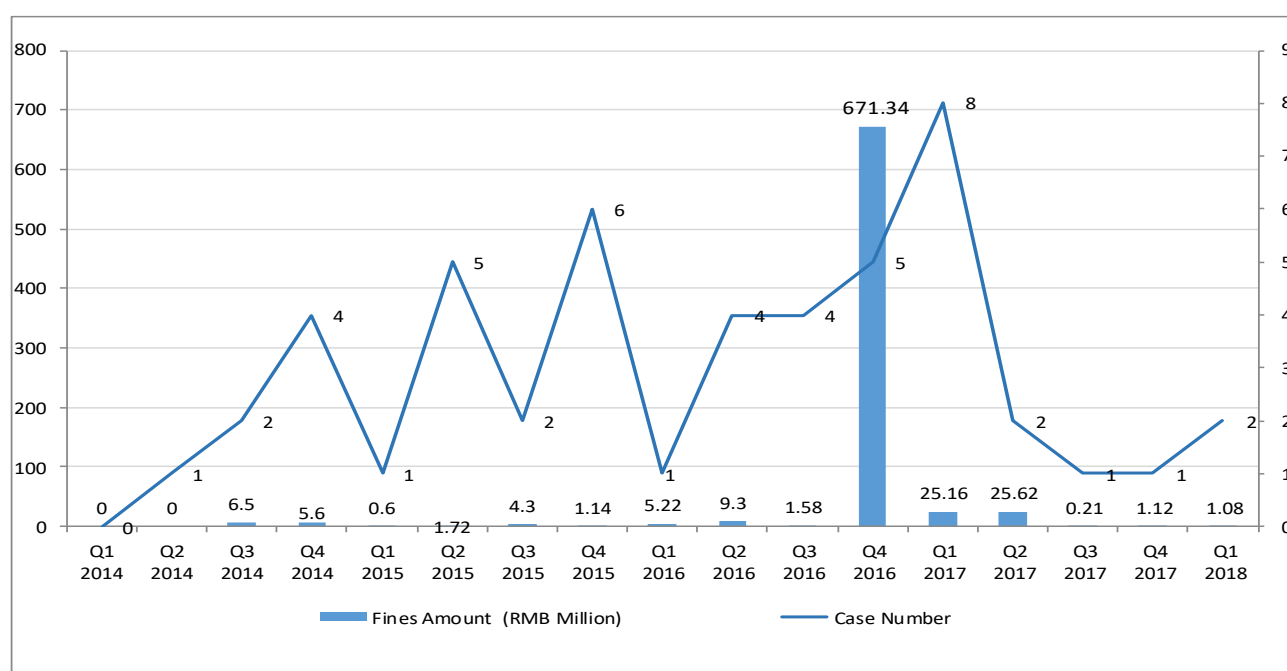
Hubei AIC fines local port company for abuse of dominance

It was published on 8 February 2018 that Hubei AIC imposed a fine of RMB 977,400 (USD 154,733) on Hubei Yinxingtuo Port ("HY Port") for abuse of dominance. HY Port was found to have treated roll-on/roll-off ("RORO") shipping transport companies in a discriminatory way by favoring a related entity, Yichang H Transport. The relevant market was defined as RORO shipping port service for cargo vehicles along Yiyu Route (upbound, or from Yichang to Chongqing) along the Sichuan River. HY Port was found to hold a dominant position in the relevant market as it is the only service provider. The fine imposed by Hubei AIC is equal to 6% of HY Port's total revenues in 2016.

Anhui AIC fines local freight industry association for monopoly agreement

On 31 January 2018, it was announced that Anhui AIC imposed a fine of RMB 100,000 (USD 15,882) on Huainan Freight Chamber ("HFC") for reaching a monopoly agreement. On 1 July 2016, HFC organized a meeting where it asked its members to procure insurance services from only five designated companies. To ensure compliance, HFC also put in place a penalty mechanism. Anhui AIC was of the view that HFC's conduct amounted to entering into a monopoly agreement in the role of a facilitator. Considering that HFC has cooperated in the investigation and voluntarily modified its conduct, Anhui imposed a relatively light fine as a result.

Enforcement trends – Q1 2014 to Q1 2018



Case	Date announced	Issue	Total fine (RMB '000)	Minimum (RMB '000)	Maximum (RMB '000)	% of Turnover	Leniency/ Co-operation
Freight Anhui AIC	31 January 2018	Horizontal agreement	100	N/A	N/A	NA	Yes
RORO Shipping Hubei AIC	8 February 2018	Abuse of dominance	977.4	N/A	N/A	6%	Yes

India

CCI fines three coal-handling firms for hard core cartel conduct

In a regulatory order released on 10 January 2018, the Competition Commission of India ("**CCI**") fined three local coal-handling firms INR 1.36 billion (USD 21.4 million) for bid-rigging in tenders issued by Maharashtra State Power Generation Company ("**Mahagenco**"). In December 2013, the CCI had dismissed a complaint that accused the firms of cartel conduct in Mahagenco-organized tenders from 2005-2013. However, this was set aside by the former Competition Appellate Tribunal, which then ordered the CCI to formally investigate this matter. The CCI found that the three firms colluded to manipulate the bidding process, which fell within the category of hard-core cartel.

CCI imposes USD 21 million penalty on Google for 'search bias'

On 8 February 2018, the CCI imposed a penalty of INR 1.36 billion (USD 21.17 million) on Google for abuse of dominance in the domestic markets for online general web search and web search advertising services. The case against Google dates back to 2012 when Consim Info and Consumer Unity & Trust Society filed complaints with the CCI. Google was found by the CCI to have a dominant position in the market for algorithmic search in India. Also, Google has been allegedly engaged in a "search bias" by favouring Google's own services through manually manipulating its search results to the advantage of its vertical partners and, consequently, has caused harm to competitors and users. The fine accounts for 5% of Google's average total revenue deriving from its Indian businesses in 2013, 2014, and 2015. Google has reportedly appealed this decision.

Vietnam

Vietnam's competition authority seeks extraterritoriality to enhance merger control

It is reported that a draft bill to amend Vietnam's competition law is intended to strengthen the country's merger control regime with the inclusion of an extraterritoriality provision. The new provision would allow any anti-competitive conduct that impacts Vietnam to be investigated and addressed regardless of where it takes place. The draft bill is expected to be approved and formally come into force in January 2019. Notably, the draft bill also proposes to remove the current 30% market share threshold and replace it with an alternative threshold based on the combined asset value or revenue of the parties, or the transaction value.

Hong Kong

HKCC consults on the application of the first conduct rule to the Code of Banking Practice

On 11 December 2017, 14 banks jointly applied under section 9 of Competition Ordinance (Cap 619) ("**CO**"), seeking a decision from the Hong Kong Competition Commission ("**HKCC**") confirming that the first conduct rule does not apply to the giving effect of the Code of Banking Practice by the applicants by virtue of the exclusion in section 2 (Compliance with legal requirements) of Schedule 1 to the CO. The Code is issued by The Hong Kong Association of Banks and The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies. It sets out practices to be adhered to by authorized institutions in dealings with individual customers and the standard of acceptable and required banking practice. In some areas, the Code prescribes that there should be no or reasonable fees for banking products and the methodology for how banking products should be priced, as well as certain trading conditions. In accordance with section 10 of the CO, the Commission called for submissions of representation from interested parties by 15 February 2018.



South Korea

KFTC announces 2018 enforcement plan

On 25 January 2018, the Korea Fair Trade Commission ("KFTC") announced its enforcement plan for 2018. Interesting points are: (i) in order to enhance competition between large companies and smaller companies, the KFTC plans to exempt small and medium-sized enterprises from cartel regulations under certain conditions; and (iii) the KFTC will focus on innovation-based markets by aggressively monitoring abuse of market dominance, in particular in the pharmaceuticals, platform service providers and big data markets.

KFTC signs off amendment to Criminal Referral Guideline

On 8 March 2018, the KFTC finally signed off on the proposed amendment to the Guidelines on Criminal Referrals for Violations of the Monopoly Regulation and Fair Trade Law ("**Criminal Referral Guideline**"). The key aspects of the Amendment are: (i) introducing a new set of criteria for criminal referrals against *individual* employees, precluding consideration of the individual's position within the company from such criteria, and making criminal referral mandatory for an individual with at least 2.2 penalty points under the new criteria; (ii) discarding existing criteria for determining the severity of violation for consideration of criminal referrals for *companies* under the Criminal Referral Guidelines and instead referring to the criteria for determining the severity of violation for fine calculation under the Guidelines on Administrative Fines for the said consideration; and (iii) in terms of reconsidering its decisions to make criminal referrals, removing vague or redundant elements (such as "when necessary to obtain key evidence") from the Criminal Referral Guideline while leaving other grounds for reconsideration. The amendment will take effect as of April 9, 2018.

Japan

JFTC investigates Amazon

On 15 March 2018, the JFTC raided Amazon Japan for allegations that they obliged vendors selling on Amazon Japan's e-commerce website to bear a part of the costs of offering discounts. This follows on from the JFTC's previous investigation into whether Amazon Japan forced sellers to offer no less favourable conditions to Amazon than were provided to other e-commerce competitors, which led to Amazon Japan giving up the price parity and selection parity clauses in its seller contracts.

JFTC closes investigation on Deutsche Bank/Merrill Lynch

On 29 March 2018, the JFTC announced the closure of investigation on the alleged bid-rigging between Deutsche Bank and Merrill Lynch regarding U.S. dollar-denominated supranational bonds, because the statute of limitation (i.e., 5 years after the end of alleged breach) has already expired. The JFTC decided to disclose the case in order to prevent similar conduct. The JFTC has confirmed that both Deutsche Bank and Merrill Lynch implemented measures to prevent future infringement of the Anti-Monopoly Act of Japan.

A light blue map of Southeast Asia is shown on the left side of the page. Two callout lines originate from the map: one points to Singapore and the other points to the Philippines. The Singapore callout is at the top left, and the Philippines callout is further down and to the right.

● Singapore

CCS proposes interim measures in respect of merger between Grab and Uber

On 27 March 2018, the Competition Commission of Singapore (“**CCS**”) commenced an investigation into the unnotified sale of Uber’s Southeast Asia ride-hailing business to Grab Inc. The CCS has not completed its investigation, but has issued proposed Interim Measures Directions to the parties to preserve and/or restore competition and market conditions in the chauffeured personal point-to-point transport passenger and booking services market in Singapore. This is the first time that the CCS is proposing interim measures for companies that it is investigating. The measures, if implemented, will require Grab and Uber to maintain independent pricing, pricing policies and product options as they were before the sale. Similar measures have been proposed in the Philippines.

CCS fines five capacitor manufacturers for price fixing and information exchange

On 5 January 2018, the CCS issued an Infringement Decision and imposed a record-breaking fine of over SGD 19.5 million (USD 15 million) against five capacitor manufacturers, ELNA Electronics, Nichicon, Panasonic, Rubycon, and Singapore Chemi-con (the “**Parties**”), for engaging in anti-competitive agreements and/or concerted practices to fix prices and exchange information in relation to the sale of Aluminium Electrolytic Capacitors (“**AEC**”) in Singapore.

The CCS found that the Parties: (i) exchanged confidential and commercially sensitive business; (ii) discussed and agreed on sales prices, including various price increases; and (iii) agreed to collectively reject customers’ requests for reduction in prices of AECs sold to them. Panasonic was offered total immunity from financial penalties for being the immunity applicant while ELNA Electronics, Rubycon and Singapore Chemi-con were awarded a discount further to their application for leniency.

Restructured CCS to also oversee consumer protection

From 1 April 2018, the former CCS was restructured to include a new consumer protection role. The renamed Competition and Consumer Commission of Singapore (“**CCCS**”) takes over Enterprise Singapore’s role as the appointed administering agency for the Consumer Protection (Fair Trading) Act. The CCCS will take on two new initiatives in the coming year: a market study into the online travel booking sector, and a joint initiative with the Personal Data Protection Commission on data portability.

● Philippines

PCC nullifies a deal for failure to notify

On 19 February 2018, the Philippine Competition Commission (“**PCC**”) published a decision in which it nullified a deal between Udenna and KGLI Investment Cooperatief (“**KGLI Coop**”) and imposed a fine of PHP 19.6 million (USD 373,797) for the failure to notify the deal. In August 2016, Udenna acquired KGLI Coop’s shares in KGL Investment BV – a foreign entity – and went on to complete the acquisition. On 28 December 2016, the PCC received a complaint about the fact that the deal had been “executed and effectuated” without fulfilling notification obligations. Following its investigation, the PCC decided to nullify the deal pursuant to the Philippine Competition Act (“**PCA**”), and issue a fine equivalent to 1% of the transaction value, though noting that one Commissioner dissented on the ground that the administrative penalty is sufficient deterrent. Udenna felt that the PCC’s decision was too harsh and argued that at the time of completion, the PCC rules were new and the parties had no guidelines to refer to. This is a very unusual example of a competition authority declaring a transfer of shares of a non-domestic company to be void on the grounds of a simple failure to file.

PCC raises merger notifications thresholds

On 5 March 2018, the PCC published a circular to raise the merger filing thresholds to PHP 5 billion (USD 96.15 million) for the size of person and PHP 2 billion (USD 38.46 million) for the size of transaction within the meaning of the PCA. The size of person refers to the value of assets or revenues of the parent entity of the buyer or the seller to the transaction, while the size of transaction refers to the asset value or revenue of the acquired entity or business. This is the first time that the filing thresholds have been amended since the PCA was enacted.



Indonesia

KPPU publishes two penalty decisions regarding failure-to-file

On 22 February 2018, the Indonesian competition authority KPPU published a decision in which it fined Plaza Indonesia Realty IDR 1 billion (USD 73,126) for not notifying its acquisition of Citra Asri Property in a timely manner. On the same day, the KPPU also published another decision in which it fined Nirvana Property IDR 1 billion (USD 73,126) for a late notification of its acquisition of Mutiara Mitra Bersama.

Australia

Proposed amendments to the Australian Consumer Law

In January and February 2018, exposure draft legislation for the Treasury Laws Amendment (Australian Consumer Law Review) Bill 2018 was released by the Government and the Treasury Laws Amendment (2018 Measures No 3) Bill 2018 was tabled in front of Parliament, respectively. The two Bills amend and expand the scope of the Australian Consumer Law so that: (a) the maximum financial penalty for body corporates will be increased from AUD 1.1 million (USD 845,053) to the greater of AUD 10 million (USD 7,682,300), 3 times the value of the benefit obtained from the offence, or 10% of annual turnover; (b) companies will be required to include charges automatically applied in their headline price; (c) the Australian Competition and Consumer Commission ("**ACCC**") will have power to issue disclosure notices to third parties to obtain information about the safety of goods/services and to issue compulsory information-gathering notices to investigate whether contract terms are unfair; (d) existing terms and definitions in respect of false billing, unsolicited consumer agreements, voluntary recalls and consumer guarantees will be clarified and/or expanded, thereby capturing conduct that currently may not be caught; and (e) publicly listed companies will be able to enforce the unconscionable conduct provisions.

Digital platforms inquiry

On 4 December 2017 the Treasurer directed the ACCC to conduct an inquiry into digital platforms. The inquiry will look at the effect that digital search engines, social media platforms and other digital content aggregation platforms have on competition in media and advertising services markets. In particular, the inquiry will look at the impact of digital platforms on the supply of news and journalistic content and the implications of this for media content creators, advertisers and consumers. An issues paper for the inquiry was released on 26 February 2018 with submissions due by 3 April 2018. The preliminary report is to be submitted to the Treasurer by 3 December 2018, with a final report due by 3 June 2019.

Criminal cartel charges laid

In February 2018, criminal charges were laid against The Country Care Group Pty Ltd, its Managing Director and a former employee. The charges relate to alleged cartel conduct involving assistive technology products used in rehabilitation and aged care, including beds and mattresses, wheelchairs and walking frames. This is the first criminal prosecution of individuals and an Australian corporation under the criminal cartel provisions of the Competition and Consumer Act 2010 (Cth). The charges are listed for mention before the Magistrates' Court of Victoria in Mildura on 14 March 2018. If the Magistrate determines that there is sufficient evidence for the matter to proceed then it is likely that the matter will be heard in the Federal Court of Australia.

Beijing



Richard Blewett
Partner
T +86 106535 2261
M +86 13910554829
E richard.blewett@cliffordchance.com

Beijing



Yong Bai
Counsel
T +86 106535 2286
M +86 13910850420
E yong.bai@cliffordchance.com

Sydney



Dave Poddar
Partner, Head of Antitrust,
Asia Pacific
T +61 28922 8033
M +61 422800415
E dave.poddar@cliffordchance.com

Hong Kong



Emma Davies
Partner
T +852 2825 8828
M +86 13910849918
E emma.davies@cliffordchance.com

Seoul



Hyun Suk Kim
Partner
T +82 2 6902 8008
M +82 10 27959841
E hyun.kim@cliffordchance.com

Tokyo



Masafumi Shikakura
Senior Associate
T +81 (0)3 6632 6323
M +81 (0)80 1385 9808
E masafumi.shikakura@cliffordchance.com

Singapore



Harpreet Singh
Partner
T +65 6661 2028
E harpreet.singh@cliffordchance.com

Clifford Chance, 33/F, China World Office 1, No. 1 Jianguomenwai Dajie, Chaoyang District, Beijing 100004, People's Republic Of China

© Clifford Chance 2017

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

www.cliffordchance.com

Abu Dhabi • Amsterdam • Barcelona • Beijing • Brussels • Bucharest • Casablanca • Dubai • Düsseldorf • Frankfurt • Hong Kong • Istanbul • London • Luxembourg • Madrid • Milan • Moscow • Munich • New York • Paris • Perth • Prague • Rome • São Paulo • Seoul • Shanghai • Singapore • Sydney • Tokyo • Warsaw • Washington, D.C.

Clifford Chance has a co-operation agreement with Abuhimed Alsheikh Alhagbani Law Firm in Riyadh.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.

Any content above relating to the PRC is based on our experience as international counsel representing clients in business activities in the PRC and should not be construed as constituting a legal opinion on the application of PRC law. As is the case for all international law firms with offices in the PRC, while we are authorised to provide information concerning the effect of the Chinese legal environment, we are not permitted to engage in Chinese legal affairs. Should the services of a Chinese domestic law firm be required, we would be glad to recommend one. Clifford Chance is the copyright owner of the above content which is only provided for perusal and use by our clients. Should the content be forwarded or reproduced, please acknowledge that this is the work of Clifford Chance. The above content is for general reference only and may not necessarily discuss all related topics or cover every aspect of the topic concerned. The above content is not prepared for the purpose of providing legal or other advice. Clifford Chance disclaims any responsibility for any consequence arising from any action as a result of reliance upon the above content. Should you wish to know more about the topic concerned, please feel free to contact us