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DEALING A BLOW

China attempts to break down monopolies—foreign and domestic



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Doing Justice to Anti-Trust Actions

Since July, Chinese regulators have launched anti-trust investigations into several well-known foreign companies operating in China, including telecommunications company Qualcomm, computing giant Microsoft Corp. and Audi dealers under the auspices of FAW-Volkswagen Automobile Co. Ltd.

Such investigations have been carried out in accordance with Chinese law in a bid to maintain regular market order. However, some foreign media outlets have misconstrued such actions as attempts to subdue the competitiveness of foreign companies.

Anti-trust actions are common events in a mature market. After it joined the World Trade Organization in 2001, China realized that monopolizing activities had become an increasingly large obstacle in furthering national economic development. The country then put its own Anti-Monopoly Law into effect in 2008 based on the experiences of European countries and the United States, which have long employed strict measures to fight market monopolization.

After the Anti-Monopoly Law was put into place, Chinese regulators first investigated domestic companies such as instant noodles producer Master Kong, and premium liquor makers Moutai and Wuliangye—all of which were subsequently punished for driving out market competition.

Recent anti-trust moves focusing on foreign companies have come about partly due to the unique roles they have played in the development of the coun-

try. Since the start of China's reform and opening-up drive in the late 1970s, local governments have rolled out preferential policies to attract foreign companies, including providing free or low-priced land and offering tax reductions, which have given them privileged treatment and helped them achieve dominance in their respective markets.

It should be noted that foreign companies have become an integral part of the Chinese economy and contribute greatly to China's economic and social development. Restraining their growth and success is not in the country's interests.

And yet, some foreign companies have taken advantage of these favorable positions to engage in anti-competitive activities like price fixing, disturbing market order and according poorer treatment to local consumers. For example, a Mercedes-Benz car is sold at a much higher price in China than in the United States.

China's Anti-Monopoly Law is being widely enforced solely in an effort to restore order to disproportionately dominated markets and to push forward fair competition. Foreign companies operating in the country must understand that the days of preferential treatment are gone for good. Moving forward, they must adapt to keep pace with the country's macroeconomic conditions and become fair market players. In the same vein, foreign media coverage would do well to adopt a more balanced position on China's affairs and present them in a more objective manner. ■

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LET THE GAMES BEGIN

Swimmer Ye Shiwen waves upon arrival in Incheon, a coastal city in the northwest of the Republic of Korea, on September 16 for the 2014 Asian Games.

With its 1,328-member delegation, which includes 33 Olympic champions such as Ye, China seeks to top the Games for the ninth straight time since 1982.

About 10,000 athletes and 4,000 officials from 45 countries and regions are expected to take part in the XVII Asiad, the official title of the 2014 games, in Incheon from September 19 to October 4.



Anniversary of Japanese Invasion

Veterans who fought in the War Against Japanese Aggression from 1937-45 participate in a bell-ringing ceremony held in Shenyang, northeast China's Liaoning Province, on September 18 to mark the 83rd anniversary of the September 18 Incident.

Air raid sirens were sounded at 9:18 a.m. across Shenyang, where the incident occurred, along with other cities throughout the province. More than 1,000 people attended the bell-ringing ceremony.

The September 18 Incident refers to the seizure of Shenyang on that date in 1931 by Japanese invaders, a step toward their occupation of the whole of northeast China.

Chinese Teachers Abroad

China has trained more than 5,000 overseas students pursuing Master of Teaching Chinese to Speakers of Other Languages (MTC SOL) degrees.

Since the MTC SOL was set up in 2007, a total of 5,052 students from more than 100 countries have studied in China, and most of the approximately 3,500 graduates have returned to their home countries to teach Chinese, according to the Confucius Institutes on September 14. The Confucius Institutes were established in 2004 to help non-native speakers learn the Chinese language.

Another 15,741 Chinese students have also reportedly pursued the degree.

Early Mammals

Paleobiologists have identified three

new species from the Jurassic period that were unearthed in northeast China, which may push back the origin of mammals by millions of years, Xinhua News Agency reported on September 11.

Mammals are generally believed to have originated in the Middle Jurassic period between 174 million and 164 million years ago. The newly discovered fossils date back to 160 million years ago, which implies, according to Chinese Academy of Sciences researcher Wang Yuanqing, that mammals may have appeared in the Late Triassic period, perhaps around 208 million years ago.

The three are collectively known as Haramiyidans, a group that has previously been difficult to classify, owing to a lack of sufficient specimens. The fossils in question show, for the first time, the complete skull, jaw and postcranial bones of the species. The vast majority

of previously discovered fossils were merely teeth.

Wang said the three species—*shenshou lui*, *xianshou linglong*, *xianshou songae*—show bones in the middle ear and a thoracic diaphragm, which is characteristic to all mammals.

Around the size of squirrels and rats, they weighed from 40 grams to 300 grams. Scientists also believe they had foot stingers similar to those of the platypus today and probably ate insects, fruit and nuts.

Tumor Data

China will compile a second edition of its cancer atlas to optimize the use of medical resources.

The new edition of the atlas, first published in the 1970s, will redefine the regions with high cancer rates that are in need of more prevention and treatment, the Ministry of Science and Technology said on September 15.

According to the ministry, a database of cancer deaths will be established at the county level.

Research by the Chinese Academy of Medical Sciences, Chinese Academy of Sciences and Chinese Center for Disease Control and Prevention will be based on tumor registrations, cause of death surveys and demographic material.

According to a 2012 report, 8,550 people are diagnosed with cancer every day, roughly one every six minutes.

Growing Wealth

The personal fortunes of 300 Chinese topped 10 billion yuan (\$1.63 billion) as of the end of 2013, according to a new annual ranking of the wealthiest individuals in China.

The Hurun Report on September 11 released its China Rich List, showing that 20 more Chinese had fortunes topping 10 billion yuan in 2013 compared with the previous year.

The wealth of 160 of the multi-billionaires is in the form of invisible assets, according to the report.

It also counted 8,300 Chinese with wealth reaching 1 billion yuan (\$163 million), 200 more than a year earlier. The number whose wealth tops 10 million yuan (\$1.63 million) also surged by 40,000 to 1.09 million.

The Hurun Report, a monthly mag-

UNMANNED STORE

Customers use QR code scanning to pay for their shopping bill on an auto retailing machine in a self-service supermarket in Qingdao, Shandong Province, on September 13



azine best known for its annual rich list, attributed the increases to the country's overall GDP growth and appreciation in the value of real estate.

It forecast that the number of people in China with personal wealth topping 10 million yuan would reach 1.2 million in the next three years.

Kungfu Fraud

Shaolin Temple in central China's Henan Province on September 12 denied accusations of it teaching kungfu for money.

American author Matthew Polly said in his memoir *American Shaolin* that Shaolin Temple's abbot Shi Yongxin accepted him as his first foreign student after taking 1,111 yuan (\$181) as a gift. He claims to have paid an annual tuition fee of \$1,300 to learn kungfu at the Shaolin Temple Martial Arts Center.

"No martial arts halls or centers with the name 'Shaolin Temple' have any connection with the Songshan Shaolin Temple. Songshan Shaolin Temple has never recruited any students, and improper conduct by martial art schools has nothing to do with the temple," said the temple in a statement.

Shi Yanchong, a monk with the Shaolin Intangible Asset Management Center, said that judging from his book, Polly could not tell the difference between the Shaolin Temple and nearby commercial martial arts schools, adding that some laymen in the schools have posed as monks to cheat people out of their money.

Located on Songshan Mountain in Dengfeng, the 1,500-year-old Shaolin

"He [Polly] is a foreigner who loves Chinese kungfu, but he was probably misled."

Shi Yanchong, a monk with the Shaolin Intangible Asset Management Center of Shaolin Temple



Commemorative Stamps

A philatelist shows a set of nine Yangtze River special stamps at a postal office in Suzhou, Jiangsu Province, on September 13. The stamps were issued by China Post to mark the 65th anniversary of the founding of the People's Republic of China on October 1.

Temple is regarded as the cradle of Chinese kungfu.

Terror Trial

Three men and a woman stood trial on September 12 for their involvement in launching a terrorist attack in Kunming, capital of southwest China's Yunnan Province, earlier this year.

The three men—Iskandar Ehet, Turgun Tohtunyaz and Hasayn Muhammad—were sentenced to death by the Kunming Municipal Intermediate People's Court for leading a terrorist

organization and intentional homicide.

The woman, Patigul Tohti, was given life imprisonment for participating in the attack as well as intentional homicide.

The court said that Patigul Tohti's criminal acts were extremely severe, but since she was pregnant when she was detained, the death penalty cannot be applied to her according to law.

On March 1, a group of assailants armed with knives attacked civilians at a station in Kunming, causing 31 deaths and injuring another 141. Police shot dead four of the attackers and detained the four who were recently sentenced.

Water Damages

Local residents in Changshou District, Chongqing Municipality, clean up a mud-covered market on September 15 after flood water receded.

At least 10 people were killed when severe downpours battered southwest China's Chongqing and neighboring Sichuan Province on September 12-14, local authorities said.

In the worst hit Changshou, precipitation reached 200 mm. More than 60,000 people were affected by the rainstorms and 8,279 people had to be evacuated to safe places.



Slowed Production

China's value-added industrial output expanded 6.9 percent year on year in August, down from the 9-percent growth in July, the latest data from the National Bureau of Statistics (NBS) showed on September 13.

On a monthly basis, the industrial output in August expanded by a fractional 0.2 percent from July. In the first eight months, total value-added industrial output grew 8.5 percent from the same period last year.

August marked the second monthly retreat of the growth rate after industrial output grew 9.2 percent in June, the largest increase since January.

"An obvious drop was seen in the growth of industrial output for August," said Jiang Yuan, a senior analyst with the NBS, citing reasons ranging from weak external demand to tempered growth of auto and cellphone production.

Property Cools

The growth of investment in the property sector continued to slow in August, according to the NBS on September 13.

NBS data showed real estate investment rose 13.2 percent year on year in the first eight months to 5.9 trillion yuan (\$959.44 billion), 0.5 percentage points lower than the growth in the January-July period.

Investment in residential property, which accounted for 68.1 percent of the total, rose 12.4 percent year on year, compared with a 13.3-percent growth rate for the first seven months.

The slower growth was accompanied by a faster decline in the area and volume of property sales.

The total area of property sales dropped by 8.3 percent from a year ago, 0.7 percentage points steeper than the decline seen in the January-July period.

Property sales volume fell 8.9

percent year on year during the period, compared with a drop of 8.2 percent in the January-July period.

China's property sector has been cooling since the beginning of the year, with key indicators such as investment slowing for seven months straight and an increasing number of cities posting falling house prices.

On the other hand, the government has stepped up construction of affordable housing and shantytown renovation projects to help boost regional growth. By the end of July, 3.4 million units of affordable housing had been completed, or 70 percent of the government's annual target.



LIMITED EDITION

A silver bar commemorating the Year of the Goat issued by the China Gold Coin Inc. on September 16

Yuan Bonds in London

China Development Bank (CDB), a state-owned policy bank, said on September 15 that it had issued 2 billion yuan (\$325.5 million) of renminbi bonds in London.

This is the first time such quasi-sovereign yuan bonds have been issued in the London market, the bank said in a statement.

The bonds have three-, five- and 10-year maturity periods, with fixed interest rates of 3.35 percent, 3.6 percent, and 4.35 percent, respectively.

CDB Vice President Zhang Xuguang said that the bonds, backed by China's central bank and the National Development and Reform Commission, were important for offshore yuan market development, as China steadily expands the global reach of its currency.

The statement also said that Europe accounted for around 30 percent of bond purchases.

FDI Drops

Foreign direct investment (FDI) into the Chinese mainland dropped 14 percent in August from a year earlier, settling at \$7.2 billion, the Ministry of Commerce (MOFCOM) said on September 16.

The data, following a 17-percent slump in July, marked the lowest volume in nearly five years. It is a sign that investors are growing more cautious over the softening of the world's second largest economy.

For the first eight months, FDI, which excludes investment in the financial



Standing to Attention

The opening ceremony of the 11th China-ASEAN Expo is held in south China's Guangxi Zhuang Autonomous Region on September 16.



On a Roll

Construction site of the Chaka-Golmud expressway in northwest China's Qinghai Province on September 16. The 474-km expressway is to be completed by the end of 2015.

sector, stood at \$78.34 billion, down 1.8 percent from the same period last year, the ministry said.

In response to a question on whether foreign capital is leaving China, MOFCOM spokesman Shen Danyang said there are no current statistics to support that claim.

"We are still analyzing related investment and trade flows. Currently, there are no abnormal changes," he noted.

FDI from major economies slipped, including a 16.9-percent drop from the United States and a 17.9-percent fall from the European Union. Investment from Japan went down 43.3 percent to \$3.16 billion in the first eight months.

In contrast, China's outbound FDI by non-financial firms surged 112.1 percent to \$12.62 billion in August. For the January-August period, outbound FDI totaled \$65.17 billion, up 15.3 percent.

SILVER BULLET

A high-speed train bound for Changsha of central China's Hunan Province waits for departure in Nanchang of east China's Jiangxi Province on September 16. The Nanchang-Changsha train has shortened the travel time between the two cities from 3.5 hours to 1.5 hours



Huawei's R&D Center

China's leading telecom equipment manufacturer Huawei opened a new research and development (R&D) center in south France on September 12.

According to Huawei, the decision to open the new R&D site at the Sophia Antipolis Technology Park, 25 km southwest of Nice, was prompted by the fertile IT ecosystem of the hub, as well as the availability of skilled engineers in the area, who are world renowned for their know-how in the fields of electronic devices and software.

The R&D center will mainly focus on improving the quality of smartphone cameras, building the best Image Signal Processor and also developing Huawei's expertise in the fields of micro-electronics and software.

Huawei plans to integrate the first chipset developed by its engineers in Sophia Antipolis in its terminals by 2015.

"We are very proud of this R&D site, which represents perfectly what France can provide in terms of skills in the global IT market," said Song Kai, General Director of Huawei France.

Train Ticket Sales

Sales of train tickets reached a new daily high on September 12 ahead of the weeklong National Day holiday (October 1-7), the China Railway Corp. (CRC) said on September 14.

A total of 9.69 million tickets were sold on September 12, the highest level ever on a single day. The CRC said 55.8 percent of them were sold on the Internet and 10.8 percent by mobile phone.

A daily average of 8.32 million tickets were sold between September 9, when tickets for the holiday went on sale, and September 13—1.19 million more than in the same period last year.

Tickets are available 20 days ahead of the "golden week" holiday, which will see the annual travel peak.

Plateau Airport

The Huatugou Airport located in the Mongolian-Tibetan Autonomous Prefecture of Haixi in northwest China's Qinghai Province is under construction. It will cover an area of 180 hectares, the Qinghai Airport Co. claimed on September 14.

Investment in the airport has reached 700 million yuan (\$114 million).

The airport will have 3,600 meters of runway, with its terminal covering an area of about 3,000 square meters, according to the airport's project plan.

Flight tests at the airport are expected to start after construction is completed before yearend.

The airport is located in China's major production base for petroleum and potash fertilizer. It is expected to support local development and improve the aviation network on the Qinghai-Tibet Plateau.

The airport is situated on the border region between Qinghai and Xinjiang. Multiple air routes will link the region to major cities in the province and neighboring Gansu Province and Xinjiang Uygur Autonomous Region.



ICELAND

Lava flows out of the Bardarbunga volcano on September 14. Bardarbunga, at 2,000 meters above sea level, is the country's second highest peak and is located under Europe's largest glacier, Vatnajökull



THE UNITED STATES

Anti-war activists protest as U.S. Defense Secretary Chuck Hagel (left) and Chairman of the Joint Chiefs of Staff General Martin Dempsey testify on U.S. strategy to combat Islamic State extremists in Iraq and Syria before the Senate Armed Services Committee on Capitol Hill in Washington, D.C. on September 16



FRANCE

Planes park on the tarmac of Orly Airport in Paris on September 16, the second day of the Air France pilots' strike over company plans to expand its low-cost subsidiary Transavia





CEV/MIHIX



BELARUS

Hot-air balloons fly over buildings on the outskirts of Minsk on September 12, during the International Festival of Aeronautics



CEV/MIHIX



UKRAINE

Lawmakers applaud after successfully voting for ratification of a Ukraine-EU association agreement in the Ukrainian Parliament in Kiev on September 16



CEV/MIHIX



PALESTINE

Students sit in a damaged classroom at a school in Gaza on September 14, the first day of the new school year, which was three weeks later than usual as a result of the devastating 50-day war between Israel and Hamas this summer

↓ E-COMMERCE PIONEER GOES GLOBAL

Ma Yun (better known as Jack Ma), Chairman of the Board and co-founder of Alibaba Group, has vowed to make his e-business company known to the world with its initial public offering on the New York Stock Exchange.

"Today, 15 years have passed, and we've grown so significantly and have become a household name in China," Ma said in a promotional video. "And now, we are ready for the world to get to know us."

Ma created the business-to-business e-commerce platform Alibaba in 1999. In May 2003, he founded retail website Taobao.com, and in December the following year, Ma launched Alipay, which is now China's leading third-party on-line payment solution.

Born in 1964 in Hangzhou, east China's Zhejiang Province, Ma is one of the most widely recognized representatives of China's Internet entrepreneurs. He was named the richest man in China earlier this year, with his wealth valued at over 134 billion yuan (\$21.8 billion).



Chinese Cellphones Gain Favor

Oriental Outlook
September 18

Recent statistics issued by the International Data Corp. show that the shares of Samsung and Apple in the global smartphone market dropped to their lowest in recent years in the second quarter of 2014. However, Chinese cellphone brands such as Huawei and Lenovo are on the rise in the rankings, immediately following those long-time worldwide favorites.

In 2013, the total number of cellphones produced worldwide numbered around 1.8 billion, with 1.46 billion being produced in China. In 2000, the proportion made in the country was less than 5 percent.

After experiencing rapid expansion by selling low-end, cheap phones, homegrown cellphone makers have been left to figure it out for themselves how to build up quality brands. The lack of domestically produced chips and operating systems poses a problem. It is, however, not expected to hinder the pace of Chinese cellphone manufacturing—even Samsung and Sony do not use their own chips.

No longer satisfied with the domestic market, the nation's cellphone manufacturers are actively exploring the overseas market. Huawei, for instance, has already

Forgotten Toxin Plagues China's Air

Caixin Century Weekly
September 8

Ammonia, composed of nitrogen and hydrogen, is a highly toxic chemical that easily dissolves in water. The salt substances that result from chemical reactions between ammonia, water and acids are the major factors contributing to ammonia's influence on PM 2.5 (particulate matter 2.5 micrometers or less in diameter) levels. Nitrogen fertilizers and the agricultural industry contribute 90 percent of the ammonia in the environment that goes on to pollute the air.

By 2006, China's total ammonia emissions had already reached 9.8 million tons, and over the past two decades, China has consistently been the world's biggest ammonia emitter.

In August, the Ministry of Environmental Protection issued technical guidelines on ammonia emissions. At the same time, however, it noted that China is still lacking the scientific and technological tools to monitor and cope with its level of ammonia pollution. The country is now unable to make an accurate estimation of its total ammonia emissions.

Even if environmental bodies are able to treat the ammonia released into the land and air, the success of this project will rely on the involvement of the agricultural industry, farmers, fertilizer producers and more. Without cooperation, it will be difficult to make a dent in the formation and spread of the chemical. However, knowing that the ammonia pollution levels in the air are above the "safe" range is the first step toward fixing the problem.



"Chinese consumers are increasingly opting for healthy foods. And that's where Chilean products come in."

Jorge Heine, Chilean Ambassador to China, predicting China will become a main importer of Chile's foodstuffs in a decade, in an article published in a Chilean newspaper on September 16

"It is a symbol of the RMB's internationalization with a more solid basis on the European continent, and it is also a reflection of the great attention and recognition the RMB has gained from the global financial market."

Tian Guoli, Chairman of the Bank of China, announcing the first offshore RMB-denominated bond listing by the bank on Euronext, the eurozone's primary exchange, in Paris on September 15



recorded sales in over 100 countries. Though domestically made cellphones have long been regarded as low-end products, these days, some Chinese brands are able to compete with their international counterparts and even surpass them in terms of quality.

Currently, competition between domestic and foreign brands is becoming even fiercer. In the second quarter of this year, Lenovo sold 13 million cellphones in the domestic market alone, replacing Samsung as the long-time favorite.

The arrival of 4G networks is finally offering Chinese producers the chance to overtake foreign brands.

Will Curtailing Classes End Corruption?

The Beijing News September 16

The past August has seen many government officials quit Executive Master of Business Administration (EMBA) classes in well-known business schools. This massive “quitting wave” is largely related to a ban issued in August forbidding officials from attending expensive training programs.

It's difficult to know whether or not these programs helped improve government officials' administrative management capabilities. However, one thing is certain: They created more opportunities for officials to

meet business people. In that regard, EMBA courses served as little more than incubators for corruption.

Government officials should be encouraged to continue their education, but there are many other ways for them to learn. Why go specifically to expensive business schools? That's likely because these officials didn't need to pay tuition with their own money. Taxpayers or companies paid it for them.

Though a large number of officials have quit these business courses under pressure from the official ban, will the connections and trade between capital and power be served? Only when officials' power is regulated and restricted by law, rendering them unable to use administrative power freely, can we expect schools to be real bastions of higher learning, instead of places that breed corruption.



LAWYER TAKES ON RAIL AUTHORITY

Earlier in September, **Dong Zhengwei**, a lawyer in Beijing, won his lawsuit against the National Railway Administration (NRA) over high ticket refund fees.

China Railway Corp. announced in August 2013 that the fee for a refunded ticket was to rise from 5 percent of the ticket's original cost to 20 percent for tickets returned 24 hours or less before the scheduled departure time. During the Spring Festival travel rush, the fee would be 20 percent of the cost, no matter when passengers returned their tickets.



Dong demanded the NRA, which is responsible for overseeing the corporation, publicize all information related to ticket refund fees. After the NRA refused to do so, he took the administration to court in April. The NRA was ordered by the court to reconsider Dong's request.

Dong, born in 1973 in central China's Henan Province, has been active in legal actions regarding consumer rights, anti-monopoly drives and the disclosure of government information.

“Our mine-hunting efforts over the past three years have turned out the most remarkable results since 1949.”

Peng Qiming, Director of the Geological Exploration Department of the Ministry of Land and Resources, reporting on Chinese prospectors' success in finding 451 medium-sized and large mines of natural resources from 2011 to 2013, on September 12

“The major difference between America and China is that Chinese teachers, parents, children and administrators are all on the same page and work toward the same goal.”

Reina Joa, a math teacher at New York City's Brooklyn High School of the Arts who recently took a 10-day professional development trip to Shanghai, in an interview with Xinhua News Agency

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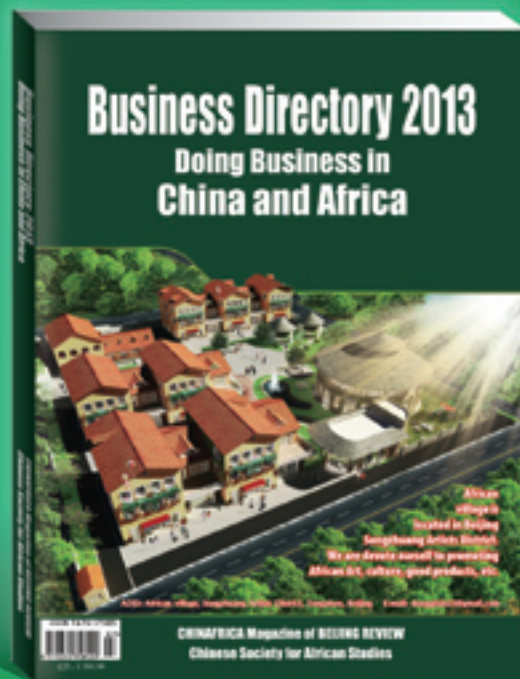


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COVER STORY

TRUST ISSUES

China resolves to stringently enforce its anti-monopoly law, no matter the origin of the offender By Zhou Xiaoyan

As China continues to launch wave after wave of anti-trust probes in a broad range of industries covering all types of businesses—state-owned enterprises (SOEs), private businesses and foreign-funded firms, concerns that foreign businesses have been disproportionately singled out during the anti-trust campaign are gradually losing foothold.

In response to Chinese consumers' longstanding complaints that they have been overcharged when purchasing cars, auto parts and maintenance services, authorities have launched anti-trust investigations into carmakers involved in suspect activity. On September 11, the FAW-Volkswagen Sales Co., together with seven dealers of its luxury brand, Audi, were fined heavily. The same day, Chrysler Group China Sales Ltd. and three of its dealers were also held subject to financial penalties.

Chinese anti-trust investigators have descended on Qualcomm, Microsoft, Mercedes, Audi, BMW and Japanese auto part makers in a wave of high-profile cases over recent months.

On the other side of the equation, law enforcement departments have been equally tenacious in pursuing domestic firms that have violated the law, although punishments meted out to domestic businesses haven't been so widely reported as those given to foreign big names.

For instance, at the beginning of September, three Chinese cement com-

panies were fined 114 million yuan (\$18.5 million) in total for manipulating prices and reaching price-fixing agreements. Also this month, 23 Chinese insurance firms and the Zhejiang Insurance Industry Association were fined more than 110 million yuan (\$17.8 million) for anti-trust violations.

When the Anti-Monopoly Law of the People's Republic of China initially came into force in 2008, China's first move was to target large domestic enterprises, as was the case in the investigations against telecom operators China Unicom and China Telecom in 2011. In 2013, five Chinese jewelers and two Chinese premium liquor makers were heavily fined for price fixing.

"Only 10 percent of the companies being probed by Chinese anti-trust authorities are foreign enterprises," Chinese Premier Li Keqiang said on September 9 during the Eighth Summer Davos in China's northern metropolitan city of Tianjin, dismissing the speculation that foreign businesses are being targeted. "China's door has opened, and it will never be closed again," Li added.

He said that an increase in the number of probes is a result of improved law enforcement. "We have improved the transparency of government supervision to restore the fairness of the market," he said. "But some of our efforts have been misinterpreted."



Li said that the supervision efforts, including anti-trust probes, are legal, transparent and fair, and that they will benefit China's opening-up programs and make more foreign investors willing to come to China in the long run.

Impartial treatment

China's Anti-Monopoly Law was enacted with the purpose of preventing and stopping monopolistic behavior, ensuring fair market competition, improving efficiency in the economy, and protecting public interests. The law became effective after Chinese authorities spent more than a decade drafting the legislation and consulting with foreign competition authorities from the United States, the EU and



LOSING THEIR LUSTER: A sales outlet of Chenghuang Jewellery in Shanghai on August 13, 2013. The Chinese jewelry vendor was heavily fined for anti-trust violations that month

other jurisdictions.

The law is enforced by three regulators in China—the Ministry of Commerce (MOFCOM) enforces merger provisions; the State Administration of Industry and Commerce (SAIC) focuses on non-price related actions; and the National Development and Reform Commission (NDRC) takes on pricing monopolies.

The anti-trust law states that businesses engaging in monopolistic behavior will be fined 1 percent to 10 percent of their annual sales revenues. Punishments vary depending on the nature, severity, and duration of the violations and how cooperative the companies in question are with law enforcement.

Xu Kunlin, Director General of the Bureau of Price Supervision and Anti-Monopoly under the

NDRC, said China's three anti-trust regulators have fewer than 100 staff members altogether.

"With such a small team, our investigations mainly follow public reports, so they are selected by consumers," said Xu, amid some foreign companies' complaints that they fall victim to "selective enforcement" of anti-monopoly probes in the country.

"Some of the NDRC monopoly investigations involve overseas multinationals, but that does not mean that we are specifically targeting only them," he said. "As a law-enforcement agency, we treat local and overseas companies equally to ensure justice for all. This is the spirit of the law, and the principle we always adhere to in the process of enforcing the law."

"Some business operators in China have

failed to adjust their practices in accordance with the anti-trust law. Others have a clear understanding of the law but they take the chance," Xu told Xinhua News Agency.

Xu said the NDRC has always ensured that the defendants can make statements, seek hearings and legal redress during the course of anti-trust enforcement.

"For example, in an auto parts price-fixing case, Sumitomo from Japan filed a written statement which was accepted by the NDRC. We reduced the fine from 342.72 million yuan (\$55.8 million) to 290.4 million yuan (\$47.3 million)," Xu said.

Shi Jianzhong, a law professor at the China University of Political Science and Law, said that it is groundless to accuse China of using anti- ▶▶

trust investigations against foreign businesses.

"Since the law was enacted six years ago, investigations have covered state-owned, private as well as foreign businesses. They are all equal in the investigations. No company can escape punishment once it violates the law," he said.

Shen Danyang, a MOFCOM spokesman, said the recent anti-monopoly investigations concerning a number of foreign companies are intended to promote fair competition and protect consumers' rights.

"Probes on monopolistic behavior are universal practice. Companies in China, no matter whether they are domestic or foreign, must bear the burden of legal consequences if they violate Chinese laws," Shen said.

Harley Seyedin, President of the

American Chamber of Commerce in South China, said he believes that Chinese laws will treat domestic and outside businesses equally. He said the ongoing anti-trust probes will not affect his member companies' future investment in China.

"While in China, you have to respect and follow laws and regulations in China," he told *Beijing Review*. "There are no so-called 'foreign businesses' in China. Once you come here as a foreign company, you establish a Chinese company that is subject to Chinese laws, that pays Chinese taxes and that acts as a Chinese citizen."

"It doesn't matter whether those companies are U.S.-invested or not, we would expect those companies to respect and follow Chinese

laws, just as all companies in the United States should follow U.S. laws," he said.

"If you only come to China for its cheap land and labor and a lax law enforcement environment, then you're not welcome," he said.

Wang Xiaoye, a law professor at the Chinese Academy of Social Sciences who has participated in the drafting of China's anti-trust laws, said the law is modeled on EU legislation. Wang said there is nothing alien or unique about the country's anti-trust law.

She said it is less draconian than in other jurisdictions, particularly the United States, where offenders can go to jail and often do, since it is a violation of criminal law. As is the case in the EU, violations of China's Anti-Monopoly Law are a civil matter.

"What has happened in China recently represents normal practice everywhere," she said.

"Foreign companies that feel wrongfully accused of anti-competitive behavior should take their cases to Chinese courts," she said. "If they feel confident that everything they have done is right and they have not violated the law, they can bring their cases to the courts," she said.

The end of an era

Experts say foreign businesses in China should get used to the fact that the age of super-national treatment for foreign players has come to an end in the country and China is getting serious about creating a fair market.

In the early years of reform and opening up, in order to lure foreign investment, local governments used to offer foreign businesses a number of preferential policies on land and taxes. But now, although China still attaches great importance to foreign investment, the "super-national treatment" for foreign businesses has come to an inevitable end.

Zhang Jianping, a senior researcher at the Institute for International Economic Research at the NDRC, said foreign companies are still in an "adjustment period" to a more stringent enforcement of anti-trust law as enforcement has been somewhat lacking in previous years.

Chinese officials have urged companies operating in China, domestic and foreign, to review their operations to see if their practices fully abide by the anti-monopoly legislation.

Huang Yong, Director of the Competition

Fines for Anti-Trust Violations in China Since 2013:

- September 2014: Three Chinese cement companies, North Cement Co. Ltd., Yatai Group and Tangshan Jidong Cement Co., were fined 114 million yuan (\$18.5 million) in total for manipulating cement prices and reaching price-fixing agreements.
- September 2014: FAW-Volkswagen Sales was fined 248.5 million yuan (\$40.5 million) by the Hubei Bureau of Price Supervision, which is equivalent to 6 percent of the company's 2013 Audi sales in Hubei Province. Ten dealers of Audi, the company's luxury brand, were fined 29.96 million yuan (\$4.9 million), equivalent to 1 to 2 percent of their 2013 sales in the local market.
- September 2014: Chrysler Group China Sales Ltd. was fined 31.68 million yuan (\$5.2 million) by the Shanghai Municipal Development and Reform Commission, equivalent to 3 percent of its sales in 2013. Three Chrysler dealers were fined 2.14 million yuan (\$348,285) in total.
- September 2014: A total of 23 Chinese insurance firms—including China Pacific Insurance, Ping An Insurance and China United Property Insurance—and the Zhejiang Insurance Industry Association were fined more than 110 million yuan (\$17.8 million) for fixing new car insurance discounts and other anti-competitive practices.
- August 2014: Twelve Japanese auto suppliers were fined altogether 1.24 billion yuan (\$201.8 billion) for maintaining a price monopoly.
- August 2013: Five Chinese jewelers, Laofengxiang, Laomiao, Yayi, Chenghuang and Tianbao Longfeng, were fined 10.1 million yuan (\$1.6 million).
- August 2013: Six domestic and foreign milk formula makers, including MeadJohnson and Chinese brand Biostime, were fined 669 million yuan (\$108.9 million) in total, with the highest fine being given to domestic milk powder company Biostime Inc.
- March 2013: Two Chinese premium liquor producers, Moutai and Wuliangye, were fined 449 million yuan (\$73 million) for their conduct involving price fixing.
- January 2013: Six Chinese and foreign television producers, including Samsung, LG, and Chimei, were fined 353 million yuan (\$57.5 million) in total.

(Compiled by Beijing Review)



NO MORE OVERCHARGING: Customers exit an Audi dealership in Yichang, Hubei Province, on September 12. A total of 10 Audi dealers in the province have been fined for anti-trust violations

Law Research Center at the Beijing-based University of International Business and Economics, said most foreign companies have rich experience in addressing anti-trust issues, but they need to gain a better understanding of China's anti-trust laws.

"Closer communication with Chinese regulators should be highlighted," Huang said.

Bai Ming, a research fellow with the Chinese Academy of International Trade and Economic Cooperation, said intensified enforcement of the Anti-Monopoly Law will become a new norm in China. He said in the future, anti-trust probes will become more and more frequent in China and all businesses should get used to it.

"In the past, regulators only targeted businesses that have severely breached the law due to defective law enforcement and systems," Bai said. "However, after six years' accumulation of experience, China's law enforcement has greatly improved. The enforcement of anti-trust

legislation is aimed at maintaining market order and sustaining a fair market environment, in order to better protect consumer rights."

The wave of anti-trust investigations has to date swept a wide range of sectors, such as LCD manufacturers, milk formula makers, pharmaceutical factories, liquor makers, auto makers, insurance companies and cement producers.

Wu Gangping, Chairman of Ernst & Young Great China, said the business environment in China has not deteriorated. "A large number of people flock to China to invest, which means they still have plenty of money to make."

According to Wu, although land and labor costs have risen in China, the country has a huge market, where manufactured products can be sold. He pointed to the fact that in recent years, a complete supply chain has been formed in China with locally based clients and suppliers. Also, China has a much more stable political environment than many other coun-

tries, Wu argued.

Wu said the recent year-on-year decline in FDI inflow into China has nothing to do with anti-trust investigations.

"FDI inflow in China has been at a very high level for a long time, ranking second in the world only to the United States. We can't expect FDI to be that high forever. Although there has been a decline, the total amount of investment is still relatively very high," Wu said.

"China's economic development used to rely on foreign investment and exports. Therefore local governments used to offer preferential policies to foreign businesses. China is not what it used to be in the 1980s. Therefore, domestic policies have changed accordingly," he said. ■

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COVER STORY

THE GAME OF MONOPOLY AND ANTI-MONOPOLY

It's time for the developing world to take action to defend its own market

By Mei Xinyu



The author is an op-ed contributor to *Beijing Review* and a researcher with the Chinese Academy of International Trade and Economic Cooperation

In the past month or two, an array of antitrust investigations against foreign companies by Chinese authorities has attracted extensive attention worldwide. While some international business lobbyists have made complaints and spun these probes as constituting discrimination against foreign-funded enterprises, a few Western governments have also joined the camp.

As the *Wall Street Journal* reported on September 15, the U.S. Secretary of the Treasury Jacob Lew has written to Chinese Vice Premier Wang Yang, claiming that antitrust probes targeted at overseas companies would undermine Sino-American relations.

Yet, should foreign companies be free of punishment in spite of their monopolistic behavior? Of course, the answer is No.

It's an objective law of market economy that free competition will lead to concentration of production and further to monopoly. Since the modern capitalist economy came into existence, its free market mechanism

has inevitably led to the sprouting up of cartels and monopolistic behavior after experiencing a golden age in the 1860s and 1870s.

As a result, a variety of anti-monopoly rules and regulations have been formulated with the goals of restricting anti-competitive agreements, reducing the abuse of dominant market position, regulating corporate mergers and acquisitions, defending market order, protecting the legitimate interests of producers and sellers and the rights of consumers, and improving economic efficiency.

So far, more than 100 countries and regions around the world have formulated their own individual anti-monopoly legislation, which in developed countries are referred to as "economic constitutions."

Just like that of other major economies, the Anti-Monopoly Law of the People's Republic of China identifies three types of monopolistic behavior: monopolistic agreements between entities, abuse of dominant market position by entities, and concentrations of entities that may eliminate or restrict competition.

A typical case of a price-fixing agreement came to light at the beginning of 2013, which involved six LCD panel makers. From 2001 to 2006, companies including South Korean makers Samsung and LG Display and AU Optronics, Chimei Innolux, Chunghwa

Picture Tubes Ltd. and HannStar Display Corp. from Taiwan took turns to host a total of 53 meetings with the explicit purpose of exchanging market information and manipulating prices. Their price manipulation in the Chinese market severely infringed the legitimate interests of their rivals and consumers. The number of LCD panels sold by the six companies on the Chinese mainland amounted to 5.15 million, with an illegal gain of 208 million yuan (\$33.87 million).

Usually, monopoly companies acquire a dominant market position by virtue of their advantages in production and circulation. As the modern intellectual property system becomes increasingly established and sometimes rigid, hordes of monopoly companies have begun to make use of their intellectual property rights to consolidate their monopoly position, to hinder their rivals' development and capacity to innovate, and to charge exorbitant prices of their customers.

Such moral hazards have been a major side effect of the modern intellectual property system. China, the largest manufacturing country in the world, has really become the largest victim of price manipulation arising from patent ownership.

The food packaging and processing multinational Tetra Pak used to engage in a cluster of monopolistic behavior such as bundle sales under the pretext of patents,

Legal Definition

The Anti-Monopoly Law of the People's Republic of China identifies three types of monopolistic behavior: monopolistic agreements between entities, abuse of dominant market position by entities, and concentration of entities that may eliminate or restrict competition.

Common practices of monopoly include:

● **Price fixing:** Competitors agree to maintain the price of products or services at a certain level by reaching price agreements or restricting the output or sales of products. (A case in point for the latter is the Organization of Petroleum Exporting Countries' imposition of oil production quotas on its members.)

● **Collusive tendering:** Product and service suppliers fix the minimum price in bidding for a project.

● **Market division:** Competitors reach a consensus to divide up their sales market by targeting different sets of customers and differentiating their product ranges in a complementary fashion.

● **Joint boycott:** A number of enterprises take concerted actions, in order to eliminate competition and seize a monopoly advantage.

● **Fixing resale prices:** Business operators restrict the price for reselling to a third party when supplying products to other business operators.

● **Predatory pricing:** Enterprises sell products below cost price, in order to squeeze other competitors out of business and then monopolize the market.

● **Price discrimination:** Enterprises sell products at a lower price in a certain region, in order to squeeze other competitors out of business, or unjustifiably apply discriminatory treatment in pricing when selling to parties with whom they have equal standing.

● **Exclusive dealing:** Manufacturers require parties to conduct transactions exclusively with them.

● **Bundle sales:** Manufacturers implement tie-in sales. (An example of such is Microsoft's bundle sale of its Windows systems and Internet Explorer.)

● **Restricting resale price:** Manufacturers require parties that buy their products to sell them above a certain price.

thus preventing emerging companies from penetrating its exclusive supply chain. It was not until 2007 when China's Anti-Monopoly Law was passed that Tetra Pak began to cease these practices and its rivals such as Shandong Tranlin Group have since started to experience high-speed growth.

The patent charging model practiced by Qualcomm, the world's largest cellphone chipmaker, is even more egregious. It has had its patent-based business model in place since the third-generation (3G) of mobile telecom technology came into being in March 2001. All 3G-related manufacturers and marketers have since been obliged to sign patent licensing contracts and pay a certain share of the selling price to the chip maker.

As a result, Chinese consumers have been overcharged. Prices of 3G cellphones using the WCDMA or CDMA2000 systems are 200-300 yuan (\$33-49) higher than they should be. Almost half of the profits earned

by China's 3G cellphone makers have found their way into the pockets of Qualcomm in the form of patent fees.

According to figures from China's National Bureau of Statistics, the ratio of profit to cost of industrial enterprises in the sector of computer, telecom and electronic equipment manufacturing was 4 percent or so in 2012 and 2013, ranking a poor 36th among China's 41 industrial sectors.

At the same time, Qualcomm has harvested 49 percent of its revenue from China's cellphone-making industry. In 2013, the company accounted for 54 percent of the global cellphone chip industry, and its market value in 2012 hit \$123 billion, going so far as to exceed the GDP of Angola, a southwest African country with a 21-million population.

Evidently, profits accrued from monopolies come at the expense of consumers and outside enterprises. According to statistics, since 1990, the average rate of excessive

pricing by domestic cartels has been 22 percent, and that of international cartels has been 25 percent.

The anti-trust investigations into global cartels being carried out by developing countries will promote equity from an international perspective. At present, all of the international companies punished in anti-monopoly probes run businesses in both developed and developing countries and they seize more profits from developing markets through monopolistic practices. However, most of the investigations have been launched by developed countries, which have also collected the fines. According to WTO figures, in the 1990s, a total of 39 cartel investigations were launched worldwide, involving 31 countries, of which eight were developing countries. Most of these cases were investigated, and the guilty parties subsequently fined, by the United States and the European Union, which lined their pockets with billions of dollars, often leaving victimized developing countries uncompensated. However, the fines were calculated based on global sales of monopoly companies. Developed countries' anti-monopoly authorities seized the funds that should belong to developing countries, thereby further intensifying global income disparity.

Just like any other type of supervision, anti-monopoly oversight is a never-ending process. A huge quantity of professionals and financial resources is needed to enforce the Anti-Monopoly Law in practice. As a developing country, China has been somewhat at a disadvantage when carrying out anti-monopoly supervision, because most involved multinationals come from the developed world and have rich experience and resources to evade supervision and punishment.

For some developing countries, this gap in resources and experience between them and entities from developed countries may be insurmountable. This is not the case, however, in the world's second largest economy. From the LCD panel case at the beginning of 2013 to the recent wave of anti-monopoly investigations, narrowing the gap is only a matter of time for China. ■

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