

Frontier Issues in China's Competition Policy and AML Enforcement

-At the Tenth Anniversary of the Implementation of the AML

中国竞争政策及反垄断执法前沿问题——反垄断法实施十周年纪念

3rd ANNUAL CONFERENCE CUPL/UNCTAD

中国政法大学/联合国贸发会第三届年会

20-21 SEPTEMBER 2018

1+2 Conference Hall, Building No.7, Beijing Friendship Hotel

2018年9月20日-21日

北京友谊宾馆瑞宾楼 1+2 会议室

Agenda

议程

HOST: UNCTAD / CUPL

主办：联合国贸易与发展会议，中国政法大学

CO-HOST: CIIAI / CCCL / GW Law School

承办：中国国际反垄断和投资研究中心，中国政法大学竞争法研究中心，乔治华盛顿大学法学院

Chairs / 大会主席：

Prof. Shi Jianzhong, Vice-President of CUPL

时建中教授，中国政法大学副校长

Prof. Ioannis Kokkoris, Queen Mary University of London

Ioannis Kokkoris 教授，伦敦大学玛丽皇后学院

DAY ONE

第一日

08:30-09:00 Registration

登记签到

09:00-10:30 Keynote speeches

致辞 / 主旨演讲

Prof. Shi Jianzhong, Vice-President of CUPL

时建中教授，中国政法大学副校长

Shang Ming, Head, PCCPL

尚明，中国世贸组织研究会竞争政策与法律专业委员会主任

Ulrich Weigl, Minister Counsellor, EU Delegation to China

Ulrich Weigl, 欧盟驻华代表团公使衔参赞

Paul Csiszar, Director, Directorate E, DG Competition, European Commission

Paul Csiszar, 欧盟委员会竞争总署 E 部主任

Bureau of Anti-Monopoly, SAMR (to be confirmed)

国家市场监督管理总局反垄断局 (待定)

10:30-10:45 Break

茶歇

10:45-12:00 Cartels: A.I., algorithms and their effect on corporate responsibility

卡特尔：人工智能、算法及其对企业责任的影响

This panel will discuss how artificial intelligence and algorithms may help facilitate the coordination of competitive behavior. But this raises a larger question: Who is responsible for the collusion and in these situations, can ignorance be a defense?

本组将讨论人工智能和算法会怎样便利竞争行为的协调。但这产生了一个更大的问题：谁对合谋行为负责，以及在这种情况下，无知是否可以成为抗辩理由？

Chair:

主持人：

Ian Simmons, Partner, O'Melveny & Myers

Ian Simmons, 美迈斯律师事务所合伙人

Speakers:

发言人：

Tom Smith, Legal Director, Competition and Markets Authority, London

Tom Smith, 英国竞争与市场管理局法务总监

Dr. Pierre Horna, Legal Affairs Officer, UNCTAD

Pierre Horna 博士，联合国贸易与发展会议法律事务官员

Prof. Shi Jianzhong, Vice-President of CUPL

时建中教授，中国政法大学副校长

Ethan Litwin, Partner, Dechert

Ethan Litwin, 德杰律师事务所合伙人

12:00-13:00 LUNCH

午餐

13:00-14:30 Merger control in the current US Administration

本届美国政府的经营者集中管理制度

This panel will discuss merger control developments in China, US and EU during the last year and explore whether rising protectionism is having an effect on merger analysis and transparency.

本组将讨论上一年度中国、美国和欧盟在经营者集中管理方面的发展，并探析新兴的保护主义是否会对分析经营者集中以及程序的透明度产生影响。

Chair:

主持人:

Sheng Jiemin, Professor, School of Law, Peking University

盛杰民, 北京大学法学院教授

Speakers:

发言人:

James Venit, Partner, Dentons

James Venit, 大成律师事务所合伙人

Kati Robson, Partner, O'Melveny & Myers

Kati Robson, 美迈斯律师事务所合伙人

Jie Tong, Partner, DaHui Lawyers

童杰, 达辉律师事务所合伙人

Kun Huang, Vice-President, Compass Lexecon

Kun Huang, Compass Lexecon 经济咨询公司副总裁

14:30-14:45 Break

茶歇

14:45-15:45 *Per se* vs. proof of effects in abuse of dominance cases

滥用市场支配地位案件中的本身违法与效果证明原则

This panel will explore the MEO judgment, in which the ECJ recently rejected a *per se* approach under Article 102 TFEU to price discrimination and endorsed an effects-based analysis. The panel will discuss how much “proof” is needed to make an effects-based case, and will this burden unreasonably prejudice the victims of the abuse.

本组将讨论 MEO 案的判决。最近欧洲法院根据《欧盟运行条约》第 102 条审理该案时，对价格歧视拒绝适用本身违法原则，而支持了效果分析。本组

将讨论采用效果分析的案件中究竟需要多少“证据”，以及此种举证责任是否会对滥用行为的受害方造成不合理的影响。

Chair:

主持人:

Prof. Ioannis Kokkoris, Queen Mary University of London

Ioannis Kokkoris 教授，伦敦大学玛丽皇后学院

Speakers:

发言人:

James Venit, Partner, Dentons

James Venit, 大成律师事务所合伙人

Sung-Keun Kim, Expert, UNCTAD, (on secondment from Korea Fair Trade Commission)

Sung-Keun Kim, 联合国贸易与发展会议专家（从韩国公平贸易委员会调任）

Bojana Ignjatovic, Partner, RBB

Bojana Ignjatovic, RBB 经济咨询公司合伙人

Zhan Hao, Partner, AnJie

詹昊，安杰律师事务所合伙人

15:45-17:15 Privacy and abuse of dominance

隐私与市场支配地位滥用

There is growing body of commentary connecting privacy to antitrust and, in particular, to abuse of dominance. This panel will address the links between data collection, privacy and antitrust as they relate to Internet platforms.

越来越多的评论将隐私与反垄断，尤其是滥用市场支配地位相关联。本组将阐述与互联网平台有关的数据收集、隐私和反垄断之间的关系。

Co-Chairs:

联合主持:

Richard Blewett, Foreign Legal Consultant, Clifford Chance

Richard Blewett, 高伟绅律师事务所外国法律事务顾问

Prof. Sun Jin, School of Law, Wuhan University

孙晋, 武汉大学法学院教授

Speakers:

发言人:

Philip Monaghan, Partner, O'Melveny & Myers

Philip Monaghan, 美迈斯律师事务所合伙人

Hu Tie, Partner, DeHeng

胡铁, 德恒律师事务所合伙人

Wei Tan, Managing Director, Mingde Economic Research

谭伟, 明德经济研究公司总裁

Tian Chen, Legal Counsel, Department of Legal Affairs, Tencent Music
Entertainment Group

田辰, 腾讯音乐娱乐集团法务部法律顾问

DAY TWO

第二日

Chairs:

主席:

Shang Ming, Head, PCCPL

尚明, 中国世贸组织研究会竞争政策与法律专业委员会主任

Dr. Pierre Horna, Legal Affairs Officer, UNCTAD

Pierre Horna 博士, 联合国贸易与发展会议法律事务官员

09:00-10:15 Excessive pricing as an abuse of dominance

滥用市场支配地位中的过高定价

The European Commission, European Court and NDRC have all been active in addressing of excessive pricing outside the SEP context. This panel will explore the tools used to determine whether products are “excessively” priced and whether antitrust regulators are well-positioned to determine what is a fair price. 欧盟委员会、欧盟法院和中国国家发改委均非常关注非标准必要专利的过高定价问题。本组将探索用什么手段来判断产品定价是否过高，以及反垄断监管者是否有条件决定什么是公平价格。

Chair:

主持人:

Michael Gu, Partner, AnJie

顾正平，安杰律师事务所合伙人

Speakers:

发言人:

Andrea Zulli, Counsel, Covington

Andrea Zulli, 科文顿·柏灵律师事务所顾问

Bojana Ignjatovic, Partner, RBB

Bojana Ignjatovic, RBB 经济咨询公司合伙人

Hazel Yin, Partner, Freshfields

Hazel Yin, 富而德律师事务所合伙人

Wang Xianlin, Distinguished Professor, Shanghai Jiao Tong University,

Director of the Research Center for Competition Law and Policy of SJTU

王先林，上海交通大学特聘教授，竞争法律与政策研究中心主任

10:15-10:30 Break

茶歇

10:30-12:00 Antitrust/IP Roundtable

反垄断与知识产权圆桌会议

This panel will discuss recent developments in China, the US and EU as regards standard-essential patents assured by voluntary FRAND commitments.

本组将探讨通过自愿承诺“公平合理非歧视”加以保证的标准必要专利近期在中国、美国和欧盟的发展。

Chair:

主持人:

Ninette Dodoo, Counsel and Co-Head of Antitrust Practice, Freshfields

Ninette Dodoo, 富而德律师事务所法律顾问与反垄断实践联合主管

Speakers:

发言人:

Hu Shengtao, Director, IPR Policy, Ericsson

胡盛涛, 爱立信知识产权政策总监

Renata Hesse, former head of DOJ Antitrust Division, Partner, Sullivan & Cromwell

Renata Hesse, 前美国司法部反托拉斯局局长, 美国苏利文·克伦威尔律师事务所合伙人

Meng Yanbei, Professor, School of Law, Renmin University

孟雁北, 中国人民大学法学院教授

Jiao Shan, Partner, Lifang

焦姗, 立方律师事务所合伙人

Deng Fei, Partner, Edgeworth Economics

邓飞, 埃奇沃思经济咨询公司合伙人

12:00-13:00 Lunch

午餐

13:00-14:30 EU State Aid and China Fair Competition Review

欧盟国家援助与中国公平竞争审查制度

In June 2017, the EU and China signed an MOU to “start [a] dialogue on state aid control.” The stated purpose of this dialogue is to “share with China the European experience in enforcing state aid control” and to assist China to “prevent public policies from distorting and restricting competition.” This panel will discuss the recent EU experience in State aid and explore how this mechanism may be of practical use in the implementation of China’s Fair Competition policy.

2017年6月，欧盟与中国签订一份备忘录以“开启国家援助管理方面的对话。”对话所述的目的是“与中国分享欧盟在国家援助管理方面的经验”以及协助中国“预防公共政策扭曲和限制竞争。”本组将讨论欧盟近期在国家援助方面的经验并探索此种机制对中国执行公平竞争政策的。

Chair:

主持人:

Prof. Huang Yong, Law School, UIBE, Dean of the Competition Law Research Center

黄勇，对外经贸大学法学院教授，竞争法研究中心主任

Speakers:

发言人:

Paul Csiszar, Director, Directorate E, DG Competition, European Commission

Paul Csiszar, 欧盟委员会竞争总署 E 部主任

Prof. Sandra Marco-Colino, Chinese University of Hong Kong

Sandra Marco-Colino 教授，香港中文大学教授

Francois-Charles Laprevote, Counsel, Cleary Gottlieb

Francois-Charles Laprevote, 美国佳利律师事务所顾问

Yang Jiajia, Director, Price Supervision and Anti-Unfair Competition Enforcement Bureau, SAMR

杨佳佳，国家市场监督管理总局价格监督检查与反不正当竞争局处长

Prof. Dai Long, Faculty of International Law, CUPL

戴龙教授，中国政法大学国际法学院

14:30-14:45 Break

茶歇

14:45-16:00 Non-antitrust screening of foreign investments in the US and EU: What Chinese companies need to know

美国与欧盟对外国投资的非反垄断审查：中国公司需要知道什么

The US and EU are increasingly concerned about the acquisition of their key industrial or technological assets by Chinese firms. The Committee on Foreign Investment in the United States (CFIUS) is a US non-antitrust procedure for the screening of foreign investment in the US. In the EU, non-antitrust screening of foreign investments, until now, has been dealt with at Member State level. The draft EU Regulation for the screening of foreign investment was conceived to provide the European Commission with greater oversight of foreign investments. CFIUS is already a tool for the vetting of Chinese investments, and the draft EU Regulation has similar objectives. This panel will discuss how these review mechanisms operate (or will operate) in practice, the procedures applicable, and how legal advocacy may be helpful to Chinese companies seeking to obtain these clearances.

美国与欧盟越来越关心中国公司对其核心工业和技术资产的收购。美国外国投资委员会(CFIUS)是美国对外国投资的非反垄断审查程序。在欧盟，到目前为止，一直是成员国在处理外国投资的非反垄断审查问题。欧盟外国投资审查条例草案意欲让欧盟委员会获得对外国投资更大的监管权。美国外国投资委员会已是审查中国投资的工具，欧盟条例草案也有相似的目标。本组将讨论这些审查机制在实践中怎样运作（或将怎样运作），适用哪些程序，以及法律游说如何为希望获批的中国公司提供帮助。

Co-Chairs:

联合主持:

Alastair Mordaunt, Partner, Freshfields

Alastair Mordaunt, 富而德律师事务所合伙人
Prof. Qi Huan, Faculty of International Law, CUPL
祁欢教授, 中国政法大学国际法学院

Speakers:

发言人:

Charles Pommies, Counsel, Allen & Overy, Brussels
Charles Pommies, 布鲁塞尔安理国际律师事务所顾问
Nicholas Song, Partner, Dechert
Nicholas Song, 德杰律师事务所合伙人
Wang Xiaodong, Partner, Global Law Office
王筱东, 环球律师事务所合伙人
Prof. Han Liyu, Law School, Renmin University of China
韩立余, 中国人民大学法学院教授

16:00-17:15 Enforcement Roundtable

执法圆桌会议

Chair:

主持人:

Frank Fine, CIIAI Executive Director
Frank Fine, CIIAI 执行董事

Speakers:

发言人:

Paul Csiszar, Director, Directorate E, DG Competition, European Commission
Paul Csiszar, 欧盟委员会竞争总署 E 部主任
Tom Smith, Legal Director, Competition and Markets Authority, London
Tom Smith, 英国竞争与市场管理局法务总监

Renata Hesse, former head of DOJ Antitrust Division, Partner, Sullivan & Cromwell

Renata Hesse, 前美国司法部反托拉斯局局长, 美国苏利文·克伦威尔律师事务所合伙人

Bureau of Anti-Monopoly, SAMR (to be confirmed)

国家市场监督管理总局反垄断局 (待定)

谨对乔治华盛顿大学、富而德律师事务所、RBB 经济咨询公司、美迈斯律师事务所、德杰律师事务所、安理国际律师事务所以及“一带一路”人才培养与法律研究院对本次会议的支持和赞助致以诚挚的感谢！

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