



**Asia-Pacific
Economic Cooperation**

2009/SOM1/CPLG/012

Agenda Item: 7

An Update on Competition Policy in China

Purpose: Information
Submitted by: China



**Competition Policy and Law Group Meeting
Singapore
21-22 February 2009**

中国竞争政策的进展情况 An Update on Competition Policy in China

中国商务部反垄断局
Anti-Monopoly Bureau, Ministry of
Commerce, PR China
22 February 2009

2009-2-22

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执法 Enforcement

- 2008年8月1日《反垄断法》施行以来，截至2008年12月31日，商务部共收到26项经营者集中申报，立案受理21项，15项已做出审查决定。
- From 1 August 2008 through 31 December 2008, 26 pre-concentration notifications received, proceedings initiated on 21, and decisions made on 15.
 - 2008年11月18日，商务部发布了中华人民共和国商务部公告[2008]第95号，对英博集团公司（INBEV N.V./S.A.）收购AB公司（ANHEUSER-BUSCH COMPANIES INC.）的反垄断申报做出不予禁止但附加限制性条件的决定。
 - 18 November 2008, authorization granted for Inbev's acquisition of AB with conditions.

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立法 Legislation

- 《中华人民共和国反垄断法》（Anti-Monopoly Law of the People's Republic of China）于2007年8月30日通过并公布，自2008年8月1日起施行。
- 1 August 2008, Anti-Monopoly Law of the People's Republic of China
 - 《国务院关于经营者集中申报标准的规定》（Provisions of the State Council on Thresholds for Prior Notification of Concentration of Undertakings）于2008年8月3日公布并施行。
 - 3 August 2008, Provisions of the State Council on Thresholds for Prior Notification of Concentration of Undertakings

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立法 Legislation (Cont'd)

- 2009年1月5日，为了方便经营者进行集中申报，商务部反垄断局公布了《关于经营者集中申报的指导意见》（Opinions of Guidance on Notification of Concentration of Undertakings）和《关于经营者集中申报文件资料的指导意见》（Opinions of Guidance on Documents and Materials Submitted for Notification of Concentration of Undertakings），自公布之日起施行。
- 5 January 2009, Opinions of Guidance on Notification of Concentration of Undertakings & Opinions of Guidance on Documents and Materials Submitted for Notification of Concentration of Undertakings took effect.

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立法 Legislation (Cont'd)

More Drafted to Seek Public Comment

- 7 January 2009, Guidelines on Definition of the Relevant Market (Draft)
- 19 January 2009, Interim Measures for Investigating and Disposing of Concentration of Undertakings Failing to File Notification in Accordance with the Law (Draft)) & Interim Measures for Collecting Evidence on Suspected Monopolistic Concentration of Undertakings below the Thresholds (Draft)
- 20 January 2009, Interim Measures for Notification of Concentration of Undertakings (Draft for solicitation of public opinion) & Interim Measures for Review of Concentration of Undertakings

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立法 Legislation (Cont'd)

- 6 February 2009, Interim Measures for Investigating and Disposing of Suspected Monopolistic Concentration of Undertakings below the Thresholds (Draft))
- Measures for Calculating Turnover of Financial Undertakings Filing Concentration Notifications is being drafted

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反垄断委员会和执法机构 Anti-monopoly Commission & Enforcement Agencies

- 根据《反垄断法》，国务院设立反垄断委员会，负责组织、协调、指导反垄断工作，其职责包括：研究拟定有关竞争政策；组织调查、评估市场总体竞争状况，发布评估报告；制定、发布反垄断指南；协调反垄断行政执法工作等。国务院反垄断委员会不承担具体的执法职能。
- Anti-Monopoly Commission & Its Functions:
 - Organize, coordinate & guide.

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反垄断委员会和执法机构 Anti-monopoly Commission & Enforcement Agencies (Cont'd)

- The Commission designated three enforcement agencies:
- - Anti-monopoly Bureau under the Ministry of Commerce (MOFCOM)
 - Review concentrations notified
 - Investigate Monopolies in Foreign Trade
 - Guide Chinese Firms in Overseas Anti-trust Proceedings
 - Lead FTA Consultations & Negotiations
 - Conduct International Exchanges & Cooperation
 - Daily work of the Commission

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反垄断委员会和执法机构 Anti-monopoly Committee & Enforcement Agencies (Cont'd)

- Price Supervision and Examination Department under the National Development and Reform Commission (NDRC), dealing with price cartels & abuses.
- Anti-monopoly & Unfair Competition Enforcement Bureau under the State Administration of Industry & Commerce (SAIC), dealing with cartels, abuses & administrative monopolistic practices.

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国际合作：双边 International Cooperation: Bilateral

- 与欧盟建立了竞争政策对话(China-EU Competition Policy Dialogue)机制，与欧盟及其成员国举办了执法机构代表举行了企业并购审查专题研讨会（China-EU Workshop on Practical Issues for Merger Review）
- China-EU Competition Policy Dialogue, China-EU Workshop on Practical Issues for Merger Review

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国际合作：双边 International Cooperation: Bilateral (Cont'd)

- 与美国律师协会（ABA）、美国贸易发展署（USTDA）等机构分别举办了反垄断法研讨会
- Anti-monopoly Law Seminars jointly with ABA and USTDA

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国际合作：双边 International Cooperation: Bilateral (Cont'd)

- 在中国和JICA“中日经济法·企业法完善项目”合作备忘录（MOU on China-Japan Economic Law and Enterprise Law Improvement Project）项目下，中日之间举办了系列反垄断法研讨会，中方还派员赴日参加反垄断法培训项目或进行研修
- MOU on China-Japan Economic Law and Enterprise Law Improvement Project (Nov. 2004) and the covered Seminars & Training Courses

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国际合作：多边

International Cooperation: Multilateral

- 商务部派员参加了联合国贸发会议（UNCTAD）政府间竞争法和政策专家组（Intergovernmental Group of Experts on Competition Law and Policy）的年会和APEC竞争政策和法律工作组（CPLG）2008年和2009年年会
- UNCTAD Intergovernmental Group of Experts on Competition Law and Policy Annual Meetings, APEC CPLG Annual Meetings

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国际合作：多边

International Cooperation: Multilateral (Cont'd)

- 召开了由商务部主办、OECD韩国政策中心（OECD/Korea Policy Centre）竞争项目和亚洲开发银行协办的反垄断法国际研讨会——“企业横向并购的数量分析方法”，中方还派员参加了OECD韩国政策中心在韩国首尔举办的反垄断法研讨会
- OECD/Korea Policy Centre & ADB International Seminar on Quantitative Analysis of Horizontal M&As, OECD/Korea Policy Centre Anti-monopoly Law Seminar (Seoul)

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国际合作：多边

International Cooperation: Multilateral (Cont'd)

- 商务部还派员参加了APEC竞争政策和法律工作组会议和竞争政策培训（CPLG Training Course on Competition Policy）、东盟竞争问题专家组（AEGC）东京研讨会（The 2nd AEGC Training Workshop on Setting Up An Effective Competition Agency）和亚洲竞争论坛年会(Annual Asian Competition Forum Conference)等培训项目或会议
- APEC CPLG Meetings & Training Courses, The 2nd AEGC Training Workshop on Setting Up An Effective Competition Agency, Annual Asian Competition Forum Conference

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Thank You!

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