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Agenda Item: 8

China's Merger Control Legislation and Enforcement

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China's Merger Control Legislation and Enforcement

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Main Content

- Legislation on merger control
- Merger control enforcement



Legislation on merger control

Implementing rules published

- One State Council Provisions
- One Anti-monopoly Commission guidelines
- Four Ministerial Regulations
- Four Working guidances



State Council Provisions

- The Provisions of the State Council on Notification Thresholds of Concentrations of Undertakings (came into effect on 3rd Aug. 2008)



Anti-monopoly Commission guidelines

- Guidelines of the State Council's Anti-monopoly Commission on the Definition of Relevant Markets (came into effect on 24th May, 2009)



Ministerial Regulations

- Calculation Methods of Turnovers for the Concentration of Financial Undertakings (came into effect on 15th Aug. 2009)
- Rules on Notification of Concentration between Undertakings (Notification Rules, came into effect on 1st Jan. 2010)
- Rules on Review of Concentration between Undertakings (Review Rules, came into effect on 1st Jan. 2010)
- Provisional Rules on Divestiture of Assets or Businesses to Implement Concentrations between Undertakings (Provisional Divestiture Rules, came into effect on 5th July, 2010)



Working Guidances (came into effect on Jan. 2009)

- Guidance on the Notification Documents and Materials
- Guidance on the Notification of Concentration of Undertakings
- Flow Chart of the Anti-monopoly Review on Concentration of Undertakings
- Operational Guidelines for the Anti-monopoly Review on Concentrations of Undertakings



Implementing rules drafting

- Regulations for Implementation of Antimonopoly Review of Concentrations of Undertakings (Implementations Regulations)
- Rules on Evaluating the Competitive Effects of Concentrations of Undertakings (Evaluation Rules)
- Rules on Imposing Restrictive Conditions on Concentrations of Undertakings



Merger Control Enforcement

Significant increase over the year of 2009 in the number of notifications filed and in the number of notifications accepted.

- More than 100 pre-acceptance consultations
- Received more than 120 filings
- More than 110 were accepted. In comparison, 77 filings were accepted in 2009.



Merger Control Enforcement

- Completed the review of most of the accepted filings. The percentage of cases that were reviewed is about 20 percent higher than the year of 2009.
- In 2010, among the reviewed cases, one was subject to commitments, two were withdrawn by the filing parties, and all others were approved without restrictive conditions imposed.



Merger Control Enforcement

- In 2010, about 70 percent of filings came from manufacturing industries.
- Most of the filings involved listed companies, at a percentage of about 60 percent.



Merger Control Enforcement

- Between the enactment of the AML in 2008 and Dec 2010, MOFCOM approved six cases subject to restrictive conditions, and one case prohibited.
- Follow-up monitoring of remedy enforcement achieved satisfactory results.

中华人民共和国商务部反垄断局
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Anti-monopoly Bureau



THANK YOU!

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