

China Antitrust Review 2016

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Last year marked the eighth year of enforcement of China's Anti-Monopoly Law. As discussed below, the year was notable on a number of fronts.

China's merger control authority, MOFCOM, issued a number of important merger decisions, although there were fewer such decisions than in prior years. In one horizontal case, Anheuser-Busch InBev's acquisition of SABMiller, MOFCOM imposed only a divestiture requirement whereas the U.S. antitrust authorities required both divestiture and behavioral commitments. MOFCOM continued to conduct far lengthier reviews than U.S. and EU antitrust authorities, with several major transactions in which MOFCOM acted as the last "gatekeeper" following completion of U.S. and EU review.

Outside of merger enforcement, Chinese antitrust enforcement arguably expanded in scope, with China's agency responsible for non-price conduct (SAIC) concluding that loyalty discounts could violate the AML, and publishing draft guidelines on intellectual property rights that appear to expand antitrust liability for patent holders in ways that differ from Western doctrine. Here, we review key developments and trends in 2016 for companies subject to AML enforcement.

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