

China Antitrust Review 2012

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Looking back at 2012, four years after China implemented its Anti-Monopoly Law (“AML”), we can discern some important ways in which China’s antitrust regime today both mirrors and departs from antitrust regimes in other jurisdictions to which our clients are subject. On the one hand, in 2012, China’s Ministry of Commerce (“MOFCOM”) developed tools that more closely approximate the US and European merger control system, with a revised notification form, a framework for policing parties that fail to meet notification requirements, increased collaboration with foreign antitrust authorities, and increased transparency regarding merger control statistics. On the other hand, MOFCOM’s decisions in several instances depart from decisions reached in other jurisdictions, and certain commentators have noted that MOFCOM’s resource constraints and the involvement of other Chinese government agencies make merger review in China a slower process than parties typically experience in the US or the European Union. In the following client alert, we consider the key developments over the past year in China’s enforcement of the AML, primarily with regard to its merger control system, but also in terms of enforcement actions and private litigations.

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