



**COMPETITION
LAW IN CHINA:**
LAWS, REGULATIONS, AND CASES

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OXFORD

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Preface

China adopted its first comprehensive competition law, the Anti-Monopoly Law (AML) in 2008. Given the size of the Chinese economy, China has become one of the major competition law jurisdictions in the world.

Besides the AML itself, there are numerous rules or regulations that have been issued over the years by the three ministries that enforce the AML, the Ministry of Commerce, the State Administration for Industry and Commerce, and the National Development and Reform Commission. Other entities have also issued important rules such as the Anti-Monopoly Commission or the Supreme People's Court.

Over the years, we prepared unofficial translations of these documents to inform Jones Day's friends and clients about the development of competition law in China. Earlier translations of some of these texts were also included in the book we authored with our former Jones Day colleagues Steve Harris and Mark Cohen, *Anti-Monopoly Law and Practice in China*, published by Oxford University Press.

The purpose of this compilation is to offer a central repository of the most relevant texts applicable in this field, including all decisions issued by the Ministry of Commerce in merger cases. It also offers an unofficial English translation to enable foreign practitioners to better understand the regulatory framework.

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PART

A

LAWS

法律

Anti-Monopoly Law of the People's Republic of China

中华人民共和国反垄断法

(Adopted by the Standing Committee of the
10th National People's Congress on August 30, 2007,
effective as of August 1, 2008)

(第十届全国人民代表大会常务委员会于2007年8月30日审
议通过，自2008年8月1日起施行)

第一章 总则	Chapter I General Provisions
<p>第一条</p> <p>为了预防和制止垄断行为，保护市场公平竞争，提高经济运行效率，维护消费者利益和社会公共利益，促进社会主义市场经济健康发展，制定本法。</p>	<p>Article 1</p> <p>This law is enacted for the purposes of preventing and prohibiting monopoly conduct, safeguarding fair market competition, improving efficiency of economic operations, protecting consumers and the public interest, and promoting the healthy development of the socialist market economy.</p>
<p>第二条</p> <p>中华人民共和国境内经济活动中的垄断行为，适用本法；中华人民共和国境外的垄断行为，对境内市场竞争产生排除、限制影响的，适用本法。</p>	<p>Article 2</p> <p>This law is applicable to monopoly conduct in economic activities within the territory of the People's Republic of China. This law is also applicable to monopoly conduct outside the territory of the People's Republic of China that has the effect of eliminating and/or restricting competition in the domestic market of the People's Republic of China.</p>

(Continued)

第一章 总则	Chapter I General Provisions
<p>第三条</p> <p>本法规定的垄断行为包括：</p> <p>(一) 经营者达成垄断协议；</p> <p>(二) 经营者滥用市场支配地位；</p> <p>(三) 具有或者可能具有排除、限制竞争效果的经营者集中。</p>	<p>Article 3</p> <p>“Monopoly conduct” is defined in this law as the following conduct:</p> <p>(1) monopoly agreements among undertakings;</p> <p>(2) abuse of dominant market positions by undertakings; and</p> <p>(3) concentrations of undertakings that have or may have the effect of eliminating and/or restricting competition.</p>
<p>第四条</p> <p>国家制定和实施与社会主义市场经济相适应的竞争规则，完善宏观调控，健全统一、开放、竞争、有序的市场体系。</p>	<p>Article 4</p> <p>The State shall formulate and implement competition rules compatible with the socialist market economy, improve macroeconomic supervision and control, and develop a united, open, competitive, and orderly market system.</p>
<p>第五条</p> <p>经营者可以通过公平竞争、自愿联合，依法实施集中，扩大经营规模，提高市场竞争能力。</p>	<p>Article 5</p> <p>Undertakings may, through fair competition and voluntary alliances, legally implement concentrations, to expand their business scale and improve their market competitiveness.</p>
<p>第六条</p> <p>具有市场支配地位的经营者，不得滥用市场支配地位，排除、限制竞争。</p>	<p>Article 6</p> <p>Undertakings with a dominant market position shall not abuse their dominant position to eliminate and/or restrict competition.</p>
<p>第七条</p> <p>国有经济占控制地位的关系国民经济命脉和国家安全的行业以及依法实行专营专卖的行业，国家对其经营者的合法经营活动予以保护，并对经营者的经营行为及其商品和服务的价格依法实施监管和调控，维护消费者利益，促进技术进步。</p> <p>前款规定行业的经营者应当依法经营，诚实守信，严格自律，接受社会公众的监督，不得利用其控制地位或者专营专卖地位损害消费者利益。</p>	<p>Article 7</p> <p>In industries that have a vital bearing on the lifelines of the national economy and national security, which are controlled by state-owned enterprises, and in industries in which monopolies are granted by law, the State shall protect the lawful business activities of those enterprises, supervise and control their conduct and prices for the products and services in accordance with the law, protect the interests of consumers, and promote technological progress.</p>

	<p>The undertakings in the industries specified in the preceding paragraph shall conduct their business in accordance with the law, act in good faith, observe strict self-discipline, subject themselves to supervision from the public, and shall not impair the interests of consumers by exploitation of their control positions or granted monopolies.</p>
<p>第八条 行政机关和法律、法规授权的具有管理公共事务职能的组织不得滥用行政权力，排除、限制竞争。</p>	<p>Article 8 Administrative agencies and organizations designated by laws and regulations to manage public affairs shall not abuse their administrative power to eliminate and/or restrict competition.</p>
<p>第九条 国务院设立反垄断委员会，负责组织、协调、指导反垄断工作，履行下列职责： (一) 研究拟订有关竞争政策； (二) 组织调查、评估市场总体竞争状况，发布评估报告； (三) 制定、发布反垄断指南； (四) 协调反垄断行政执法工作； (五) 国务院规定的其他职责。 国务院反垄断委员会的组成和工作规则由国务院规定。</p>	<p>Article 9 The State Council will set up the Anti-Monopoly Commission ("AMC"), which is responsible for organizing, coordinating, and supervising anti-monopoly-related activities, and performs the following functions: (1) researching and formulating competition policies; (2) organizing investigations and evaluations of the overall market competitive conditions and publishing evaluation reports; (3) formulating and publishing anti-monopoly guidelines; (4) coordinating administrative enforcement of the Anti-Monopoly Law; and (5) other functions specified by the State Council. The organization and working rules of the Anti-Monopoly Commission shall be formulated by the State Council.</p>

(Continued)