

ANTITRUST IN CHINA – 2018 YEAR IN REVIEW

To Our Clients and Friends:

2018 marked the tenth anniversary of the Anti-Monopoly Law (“**AML**”). The main highlight of the year is the major re-organisation of China’s antitrust enforcement agencies. China merged its three antitrust regulators into a single entity, which now oversees all mergers, pricing and non-pricing issues. This move brought to an end China’s unique tripartite system, which had been criticized for its fragmented enforcement and arbitrary assignment of duties. The integration of China’s antitrust enforcement agencies is expected to result in a better allocation of resources and more consistent decision-making in the long term, which in turn, should increase the level of enforcement and transparency.

This client alert highlights the most significant developments from 2018 and what to expect for 2019.

1. Legislative/Regulatory Developments

Establishment of the State Administration for Market Regulation. On March 21, 2018, China merged its existing three antitrust regulators into a single entity called the State Administration for Market Regulation (“**SAMR**”). The SAMR is directly supervised by the State Council of China and officially began its operations in April 2018. In addition to overseeing food and drug administration, intellectual property and product quality, the SAMR undertakes all the antitrust responsibilities previously held by the National Development and Reform Commission (“**NDRC**”), the Ministry of Commerce (“**MOFCOM**”) and the State Administration for Industry and Commerce (“**SAIC**”). The re-organisation of China’s antitrust regulators forms part of the Chinese State Council’s Institutional Reform Plan as well as President Xi Jinping’s wider policy goals, which include strengthening the government’s market supervision capability.

The SAMR consists of 27 “bureaus”, two of which now oversee antitrust enforcement. The Anti-monopoly Bureau is responsible for (1) carrying out antitrust investigations and taking enforcement actions against violations of the AML, including monopoly agreements, abuse of dominance and abuse of administrative power; (2) conducting merger review; (3) drafting and implementing anti-monopoly rules and guidelines; (4) ensuring fair competition review mechanisms; and (5) providing guidance to Chinese enterprises on responding to and coping with antitrust investigations and competition litigation in foreign jurisdictions.

The Price Supervision and Anti-Unfair Competition Bureau is in charge of enforcing the Anti-unfair Competition Law and Price Law, which previously fell under the ambit of the NDRC and the SAIC. In particular, the Price Supervision and Anti-Unfair Competition Bureau is responsible for (1) formulating guidelines and regulations on price supervision and anti-unfair competition; (2) supervising the prices of goods and services; (3) carrying out investigations and enforcement actions against unfair pricing and

unfair competition; and (4) regulating direct selling enterprises and agents and cracking down on pyramid schemes.

Throughout 2018, the SAMR has been reforming and consolidating local Administration for Market Regulation (“AMR”) offices at a provincial level and is expected to release further details regarding the integration of local enforcement teams in 2019.

New Merger Control Guidelines. On September 29, 2018, the SAMR issued a new set of merger control guidelines, which replaced the guidelines previously issued by MOFCOM. These guidelines include: (1) Guiding Opinions on the Notification of the Concentration of Undertakings; (2) Guiding Opinions on Documents and Materials Required for the Notification of Undertakings; (3) Working Guidance for Anti-monopoly Review on Concentration of Undertakings; (4) Explanation on the Implementation of the Notification Form for Anti-Monopoly Review of Concentration of Undertakings; (5) Guiding Opinions on the Notification of Concentration of Undertakings Subject to Simplified Procedure; and (6) Guiding Opinions on Regulating the Titles of Cases on the Notification of Concentrations of Undertakings. The updated guidelines contain minor changes to the guidelines previously issued by MOFCOM.

Antitrust Guidelines on the Abuse of Intellectual Property Rights. On November 19, 2018, the SAMR adopted the “Anti-Monopoly Guidelines on the Abuse of Intellectual Property Rights”. The guidelines were jointly produced by China’s three antitrust enforcement agencies and the State Intellectual Property Office, before they were merged into the SAMR. As explained in our Antitrust in China – 2017 Year in Review[1], the guidelines (1) introduce a case-specific analytical framework to determine whether an undertaking’s exercise of its IP rights is anti-competitive; (2) address the definition of the relevant market and provide that, in some cases, it may be appropriate to consider the relevant technology market (as opposed to the relevant product market); and (3) introduce a safe harbour provision in respect of certain agreements that would otherwise fall foul of the AML. The guidelines will be formally issued and promulgated in 2019.

Other Antitrust Guidelines. In addition to the Antitrust Guidelines on the Abuse of Intellectual Property Rights, the SAMR approved three other Antitrust Guidelines, namely: (1) Antitrust Guidelines for the Automotive Sector; (2) Guidelines regarding Exemption of Monopoly Agreements; and (3) Guidelines regarding Leniency Application for Horizontal Monopoly Agreements. Along with the Antitrust Guidelines on the Abuse of Intellectual Property Rights, these three guidelines will come into force during the course of 2019. According to Director General (“DG”) Wu Zhenguo, these guidelines have been drafted “in an effort to share [the SAMR’s] law enforcement ideas and experience with business operators, stabilize their expectations, and improve the transparency of law enforcement.”[2]

Potential Amendments to the AML. In 2017, China’s antitrust enforcement agencies and legislators commenced their work to revise the AML. A draft revision of the AML was prepared in 2018, but it is unclear when the first draft will be released for consultation and come into force. If implemented, these revisions would constitute the first amendments to the AML in its ten-year life. According to DG Wu Zhenguo, the SAMR will focus on improving the existing legal provisions in the AML “so they may be adapted to the development and changes of both the national and global economic environments.”[3]

Expected revisions include an increase in the financial penalty for failure to notify (currently capped at RMB 500,000) and an elucidation of Article 14 in relation to retail price maintenance.

Integration of the NDRC and SAIC's Provisions. The SAMR plans to streamline its substantive rules and procedural requirements in the areas of monopoly agreements, abuse of market dominance and administrative monopolies by integrating the regulations issued by the SAIC and NDRC in these areas. The SAMR plans to integrate the “Provisions Against Price Fixing” of the NDRC with the “Provisions for the Industry and Commerce Administrations on the Prohibition of Monopoly Agreements” and the “Provisions for the Industry and Commerce Administrations on the Prohibition of Abuse of Dominant Market Position” of the SAIC. It will also integrate the “Provisions on the Administrative Procedures for Law Enforcement Against Price Fixing” of the NDRC with the “Provisions for the Administrative Departments for Industry and Commerce to Investigate and Handle Monopoly Agreements and Abuse of Dominant Market Position” of the SAIC.

2. Merger Control

In 2018, the SAMR (and its predecessor MOFCOM) reviewed a total of 441 concentrations, which represents a 36% increase from 2017.[4] As of October 2018, the SAMR (and its predecessor MOFCOM) received a total of 2,420 notifications since the promulgation of the AML, amongst which 2,380 were approved unconditionally, 2 were prohibited and 38 were approved subject to remedies.[5]

As part of its reorganisation mandate, the SAMR sought to make the merger review process more efficient. The SAMR now has three dedicated Merger Control Divisions, which are divided according to industries. As of Q4 2018, the SAMR took an average of 15.6 days to review and approve a filing after it is formally submitted under the simplified procedure.[6] In addition, the SAMR now aims to reduce the length of merger reviews by issuing requests for information within 5 days of receiving the parties' filing.[7]

Published Decisions. Only those SAMR decisions prohibiting a transaction, or imposing or removing remedies are published. In 2018, the SAMR (and its predecessor MOFCOM) imposed remedies in a number of high-profile cases. It required structural remedies in all conditionally approved cases in 2018, save for *Essilor/Luxotica*, in which it required only behavioural remedies.

On March 13, 2018, Bayer secured MOFCOM's conditional approval for its proposed acquisition of Monsanto, a US agrochemical and agricultural biotechnology corporation. MOFCOM required Bayer to (1) divest a number of its businesses and assets globally, including its vegetable and seeds business; and (2) grant “fair, reasonable and non-discriminatory access” to the merged entity's digital agricultural platforms in China for five years after the merged entity's entry to the Chinese market.

The ongoing Sino-US trade war had consequences for US companies seeking merger clearance in China. On July 25, 2018, US chip maker Qualcomm announced that it would cease its proposed 44 billion US dollar takeover of NXP Semiconductor (“NXP”) after it failed to secure the SAMR's approval by the deadline set out in the transaction documents. Chinese stakeholders voiced their concerns regarding Qualcomm's expansion into strategic sectors, such as mobile payments, and commentators noted that the decision was likely influenced by the Chinese government's mandate to

ensure that domestic companies have access to key inputs, including intellectual property rights. Since the deal was announced in October 2016, the deadline for closing had been extended numerous times and Qualcomm had obtained approval from all jurisdictions save for China. As a result, Qualcomm paid NXP a termination fee of 2 billion US dollars. Qualcomm's Chief Executive Officer Steve Mollenkopf stated, "there were probably bigger forces at play here than just us."^[8]

On July 26, 2018, the SAMR conditionally approved the merger between Essilor, a French lens manufacturer and Luxottica, an Italian eyewear manufacturer. Pursuant to the conditions imposed by the SAMR, the merged entity must not sell eyewear products at below cost prices without a justified reason; refrain from engaging in tie-in sales or imposing exclusivity requirements on retailers; and ensure the availability of all products and services to customers in China on a fair basis.

On September 30, 2018, the SAMR conditionally approved the merger between Linde, a German chemicals company and Praxair, an American industrial gases company. The SAMR imposed six conditions, which included the following: (1) the parties must divest helium assets with an annual production volume of 90 million cubic feet; (2) Linde must divest its stakes in four joint ventures in Guangdong province; and (3) the parties must provide a timely and stable supply of certain gas products to Chinese customers at reasonable prices and volumes.

On November 23, 2018, the SAMR conditionally approved industrial equipment manufacturer United Technologies Corporation's takeover of Rockwell Collins, a manufacturer of aircraft parts. The SAMR required United Technologies Corporation to divest its research projects on oxygen systems, which could be in direct competition with an existing product of Rockwell Collins. This is not the first time that the Chinese regulator required parties to divest a business line or an R&D project to address its concerns that the merged entity would have a reduced incentive to innovate. As reported in our Antitrust in China – 2017 Year in Review^[9], in *Becton Dickinson/C.R. Bard*, MOFCOM required Becton Dickinson to divest its soft core needle biopsy device business, as this could be in direct competition with an existing product of C.R. Bard.

Enforcement of Conditions. On January 31, 2018, MOFCOM fined Thermo Fisher Scientific for its failure to comply with a condition imposed on its 2014 acquisition of Life Technologies. By decreasing the discounts given to Chinese distributors, the merged entity breached MOFCOM's conditions that it must reduce the catalogue prices of certain products sold in China by 1% each year and maintain the discounts given to Chinese dealers. MOFCOM issued a relatively low fine of RMB 150,000, in light of the compensation that the merged entity provided to the affected dealers in China and the lack of consumer harm.

In other cases, the SAMR and its predecessor MOFCOM lifted the conditions that MOFCOM had imposed in previous transactions. On February 1, 2018, MOFCOM decided to waive the conditions that it imposed on the establishment of a joint venture between Henkel and Tiande Chemical; these conditions included the supply of ethyl cyanoacetate products on fair and reasonable terms and a prohibition on excessive pricing and information exchange between the JV and Henkel. On February 9, 2018, MOFCOM announced that it would lift the conditions that it imposed in 2013 on the merger between Taiwanese semiconductor companies MediaTek and MStar Semiconductor. The conditions included

the maintenance of MStar Taiwan as an independent entity and a prohibition on cooperation between MStar Taiwan and MediaTek without MOFCOM's prior consent. On August 22, 2018, the SAMR announced that it would lift the conditions imposed on a joint venture involving the Shenhua Group in 2011. The condition required the JV not to limit the supply or raise the prices of its coal-water slurry gasification technology.

Enforcement Against Non-Notified Transactions. In 2018, MOFCOM published penalty decisions for failure to notify reportable transactions in a record number of 15 cases.[10] In one case, MOFCOM fined Shandong Sun Holding RMB 300,000 on February 6, 2018, for its failure to notify its acquisition of control in three different target companies. Shandong Sun Holding had initially submitted a filing to MOFCOM in 2015, which was rejected on the basis of incomplete documentation, and submitted another filing in 2016, only after it had completed the acquisitions. On April 26, 2018, the SAMR fined Yunnan Metropolitan Real Estate Development RMB 150,000 for failing to notify its acquisition of stakes in 8 companies, whose aggregate turnover exceeded the thresholds for mandatory notification. In another case, the SAMR fined Dutch paper pulp producer Paper Excellence BV RMB 300,000 on July 30, 2018 for its failure to notify the acquisition of Eldorado Brasil Celulose. The transaction was structured in three steps; the SAMR began its investigation into the transaction in March 2018, after the parties had carried out the first two steps of the transaction.

3. Non-Merger Enforcement

The SAMR (and its predecessors) initiated 32 investigations involving monopoly agreements and abuse of dominance in 2018.[11] Despite the announcement of the consolidation of the three agencies in March 2018, local Development and Reform Commission (“DRC”) and Administration for Industry and Commerce offices continued to be in operation and conduct enforcement actions. This may change in 2019 as the SAMR issued a notice on December 28, 2018 to authorize provincial AMRs to carry out antitrust enforcement work at the local level.[12]

Pharmaceuticals, utilities and transportation were the main industries subject to heightened scrutiny in 2018. Some of the most notable decisions include the NDRC's decision in January 2018 to impose a total fine of RMB 84.06 million on two Petro China entities for engaging in minimum price-setting in the resale of natural gas;[13] the SAMR's decision in June 2018 to impose a total fine of RMB 12.86 million on four Shenzhen tugboat companies for price-fixing;[14] and the SAMR's decision on an investigation initiated in July 2018 to impose a total fine of RMB 12.43 million on two domestic pharmaceutical firms for selling active pharmaceutical ingredients at excessively high prices and for refusal to deal.[15] The fine imposed in each case amounted to 3% to 8% of the undertaking's relevant annual sales revenue.

More significantly, 2018 saw the first published decision since the enactment of the AML where individuals were fined for obstructing an antitrust investigation.[16] On August 22, 2018, the Guangdong DRC fined the legal representative and general manager of a local automobile sales and services company a total of RMB 20,000 for refusing to cooperate with an investigation conducted by the Guangdong DRC. The two executives violated Article 42 of the AML, which provides that individuals under investigation should cooperate with antitrust agencies, by unplugging the USB flash disk from

which the officials were retrieving evidence, instructing employees to shut down their computers while the officials were carrying out the investigation, refusing to comply with an order to provide documents (claiming that such documents contained trade secrets) and challenging the authority of the officials. Even though the two executives later apologized and provided the requested documents to the Guangdong DRC, the legal representative was fined RMB 12,000 and the general manager was fined RMB 8,000.

While antitrust enforcement agencies focused on the domestic market in 2018 and that there were fewer high-profile investigations involving multinational corporations compared to previous years, the SAMR launched an investigation into three major suppliers of dynamic random access memory and conducted several dawn raids at the offices of these memory chip makers in May 2018.[17] The investigation will likely continue through 2019.

4. Civil Litigation

In 2018, Chinese courts handed down milestone judgments in cases concerning abuse of dominance and resale price maintenance in vertical agreements, which provided more clarity on the interpretation and application of the AML.

Abuse of Dominance. Two of the cases involved Tencent, the Chinese tech giant, as the defendant. Tencent's victory in both cases highlights the difficulty in establishing dominant position in the digital market in China.

In the first instance case brought by Shenzhen Micro Source Code Software Development Co., Ltd. ("**Micro Source**"), a Chinese software company, Micro Source argued that Tencent's blocking of Micro Source's WeChat Official Account constituted a refusal to deal and that Tencent engaged in discriminatory practice because other similar official accounts had not been blocked.[18] The WeChat Official Account platform is one of the features offered by WeChat, a Chinese multi-purpose messaging, social media and mobile payment application developed by Tencent. It allows businesses to conduct marketing and promotional activities on WeChat.

The Shenzhen Intermediate People's Court rejected Micro Source's definition of the relevant market as the mobile instant messaging and social media platform in Mainland China. The court held that the starting point in defining the relevant market in anti-monopoly cases is to identify the goods or services to which the disputed conduct relates, and then carry out a substitutability analysis on those goods or services. While the dispute arose on the WeChat platform, the disputed conduct pointed specifically to the WeChat Official Account services, which the court considered to be a value-added feature separate from WeChat's basic mobile instant messaging and social media services. As such, the court defined the relevant market as the market for providing marketing and promotional services through the internet in Mainland China. The court further held that the data submitted by Micro Source on WeChat's average monthly and daily active users did not establish Tencent's market dominance because first, the data did not relate to the relevant market defined by the court and second, the average number of active users on the platform could not reliably reflect the platform's market share or power because internet users frequently signed up for multiple competing platforms. Finally, the court found that Micro Source did

not adduce any evidence to support its allegation that Tencent engaged in discriminatory practice. In regard to Micro Source's allegation on refusal to deal, the court noted that a plaintiff must show that the refusal to deal had either the purpose or effect of excluding or restricting competition, an evidential burden that Micro Source failed to discharge.

In a separate action, Tencent was sued by Xu Shuqing, an individual, who alleged that WeChat's refusal to accept a set of emoji created by Xu amounted to abuse of dominance.^[19] In dismissing Xu's appeal, the Supreme People's Court rejected his definition of the relevant market as the WeChat emoji open platform and his argument that there was no substitution for such platform. Instead, the court defined the relevant market as the internet emoji service market and found that there were other channels for Xu to distribute his set of emoji. While Xu adduced evidence of WeChat's market share on the WeChat emoji open platform to support his allegation that Tencent held a dominant position, the evidence did not relate to the relevant market defined by the court. The court further cautioned against placing too much emphasis on market share when determining an undertaking's market position in the highly volatile and dynamic market for internet companies. Finally, the court held that Tencent's refusal to deal did not have the purpose or effect of excluding or restricting competition because the refusal was justified by Xu's violation of WeChat's review policy, which the court determined as reasonable, and that Xu could have revised his design and resubmitted a set of compliant emoji to compete with other applicants.

Resale Price Maintenance in Vertical Agreements. While the NDRC (now integrated into the SAMR) utilized an "illegal per se" approach in handling cases involving resale price maintenance, Chinese courts have adopted a more moderate "rule of reason" approach in civil cases, as demonstrated by the Guangdong High People's Court's judgment on the Dongguan Gree air conditioner case.

Dongguan Yushi Xinqing Geli Trading Co. Ltd. ("**Yushi**") and Dongguan Heshi Electronics Co. Ltd. ("**Heshi**") are the distributor and supplier of the Gree air conditioners in Dongguan, a city in Guangdong province. The two companies entered into an agreement with Dongguan Hengli Guochang Electronics Store ("**Guochang**"), a retailer, to sell Gree air conditioners. The agreement contained a clause setting out the minimum resale price of Gree products. In violation of the clause, Guochang sold one of the Gree models below the price agreed between the parties, and Yushi and Heshi demanded Guochang to pay a penalty for the breach. Guochang sued Yushi and Heshi, arguing that the minimum resale price clause amounted to resale price maintenance and constituted a vertical monopoly agreement, which is prohibited by Article 14 of the AML.

The Guangdong High People's Court identified three factors for consideration when analysing resale price maintenance in a vertical agreement: (1) whether competition in the relevant market was sufficient at the material time; (2) the market position of the product in question at the material time; and (3) the purpose and effect of the resale price maintenance policy, including a weighing of pro-competitive and anti-competitive effects. The court confirmed that, unlike cases involving horizontal agreements, plaintiffs in vertical agreement cases bear the burden of establishing the illegality of the resale price maintenance arrangement. Nevertheless, the court also acknowledged that as public interests are at stake in vertical monopoly cases, courts may actively seek and obtain evidence on a case-by-case basis.

While finding that the three companies entered into and implemented a resale price maintenance arrangement, the court held that the arrangement did not constitute a monopoly agreement. Even though Gree's market share amounted to 30% to 40% of the domestic air conditioner market in Mainland China, the court found that Gree did not hold a dominant position and that there was no evidence to show that the purpose or effect of the arrangement was to exclude or restrict competition. In particular, the court acknowledged the potential pro-competitive effects of a resale price maintenance arrangement (for example, maintaining the price of a product at a reasonable level may facilitate market entry for new companies and brands), and held that the relevant market was sufficiently competitive because there was generally low brand loyalty in the relevant market and that undertakings competed on many parameters that were equally, if not more, important than pricing, such as the quality of the product and after-sale service.

[1] Gibson, Dunn & Crutcher, "Antitrust in China – 2017 Year in Review" (released on March 28, 2018), available at: <https://www.gibsondunn.com/antitrust-in-china-2017-year-in-review/>.

[2] Antitrust Source, "Interview with Wu Zhenguo, Director General of China's State Administration for Market Regulation (SAMR)" (released in December 2018), available at: https://www.americanbar.org/content/dam/aba/publishing/antitrust_source/2018-2019/atsource-december2018/dec18_wu_intrvw_12_17f.pdf.

[3] Ibid.

[4] Yicai, "SAMR's Annual Report Card: It Takes Only 8.5 Days to Form a Company; Approval Rate for New Drugs Accelerated with 48 New Drugs Approved in a Year" (市场监管总局一年成绩单：企业开办需仅8.5天，新药上市加快一年批48个) (released on December 27, 2018), available at: <https://www.yicai.com/news/100087903.html>.

[5] See Footnote 2.

[6] PaRR, "PaRR Analytics: SARM Simple Case Review Averages 15.6 Days in 4Q18" (released on January 18, 2019), available at: <https://app.parr-global.com/intelligence/view/prime-2770624>.

[7] SAMR, "SAMR: Increased Efficiency for Review of Business Operator Concentration Cases" (国家市场监督管理总局：提高经营者集中案件的审查效率) (released on November 16, 2018), available at: http://samr.saic.gov.cn/xw/yw/xwfb/201811/t20181116_277087.html.

[8] Bloomberg, "Qualcomm Scraps NXP Deal Amid U.S.-China Trade Tensions" (released on July 26, 2018), available at: <https://www.bloomberg.com/news/articles/2018-07-26/qualcomm-to-scrap-nxp-deal-as-deadline-passes-for-china-approval>.

[9] See Footnote 1.

[10] SAMR, “Zhang Mao: Protect Fair Competition and Facilitate the Healthy Growth of Socialist Market Economy” (张茅：保护公平竞争 促进社会主义市场经济健康发展) (released on August 1, 2018), available at: http://samr.saic.gov.cn/xw/yw/zj/201808/t20180801_275354.html.

[11] China Market Regulation News, “The Strengthening of Anti-Monopoly Enforcement” (反垄断执法不断增强) (released on January 9, 2019), available at: <http://www.cicn.com.cn/2019-01/09/cms114231article.shtml>.

[12] SAMR, “Notice from the SAMR on the Delegation of Authority on Anti-Monopoly Enforcement” (市场监管总局关于反垄断执法授权的通知) (released on January 3, 2019), available at: http://samr.saic.gov.cn/xw/yw/wjfb/201901/t20190103_279720.html. The notice sets out the types of cases involving monopoly agreements and abuse of dominance that the SAMR will either handle directly or authorize provincial AMRs to handle: (1) cases involving autonomous regions, municipalities or more than one provinces; (2) cases involving the abuse of administrative power by a provincial government; (3) more complex cases or cases that will have a significant impact on the national level; and (4) other cases that the SAMR deemed necessary to handle directly. Provincial AMRs are authorized to directly handle other cases involving monopoly agreements and abuse of dominance that take place within the relevant administrative area.

[13] SAMR, “SAMR Published Administrative Penalty Decisions Against Two Natural Gas Companies” (市场监管总局发布对两家天然气公司的行政处罚决定书) (released on July 27, 2018), available at: http://samr.saic.gov.cn/gg/201807/t20180727_275281.html.

[14] SAMR, “SAMR Published Administrative Penalty Decisions Against Four Shenzhen Tugboat Companies” (市场监管总局发布对深圳4家拖轮公司的行政处罚决定书) (released on June 25, 2018), available at: http://samr.saic.gov.cn/gg/201806/t20180625_274741.html.

[15] SAMR, “SAMR Imposed a Fine of RMB 12.43 million Against Drug Companies Specializing in Chlorpheniramine Maleate for Monopoly Behavior” (市场监管总局对扑尔敏原料药企业实施垄断行为依法处罚1243万元) (released on January 2, 2019), available at: http://samr.saic.gov.cn/xw/yw/xwfb/201901/t20190102_279577.html.

[16] Guangdong Provincial DRC, “Guangdong Provincial DRC Administrative Penalty Decision No. 7 of 2018” (广东省发展和改革委员会行政处罚决定书 粤发改价监处〔2018〕7号) (released on August 31, 2018), available at: http://www.gddrc.gov.cn/zw/gk/zdlyxxgkzl/jgzf/pgpt/201809/t20180903_478125.shtml; “Guangdong Provincial DRC Administrative Penalty Decision No. 8 of 2018” (广东省发展和改革委员会行政处罚决定书 粤发改价监处〔2018〕8号) (released on August 31, 2018), available at: http://www.gddrc.gov.cn/zw/gk/zdlyxxgkzl/jgzf/pgpt/201809/t20180903_478124.shtml.

[17] SCMP, “US Memory Chip Maker Micron Says Chinese Officials Visited its Offices ‘Seeking Information’ in Possible New Trade War Front” (released on June 2, 2018), available at:

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<https://www.scmp.com/business/companies/article/2148937/memory-chip-maker-micron-says-chinese-regulatory-authorities>.

[18] Legal Weekly, “Court Held that Tencent’s Blocking of Account Did Not Amount to Monopoly” (法院判决腾讯封号不构成垄断) (released on September 19, 2018), available at: http://www.legalweekly.cn/article_show.jsp?f_article_id=17080.

[19] China Intellectual Property Lawyers Net, “Civil Case Judgment on the Appeal of Tencent Being Sued for Abuse of Market Dominance” (腾讯被诉滥用市场支配地位再审民事裁定书) (released on December 17, 2018), available at: <http://www.ciplawyer.cn/html/cpwxfbz/20181217/140845.html?prid=170>.



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