

Illuminating the Story of China's Anti-monopoly Law

Maureen K. Ohlhausen

Setting the Stage

On a warm summer night in Beijing, government officials, lawyers, and scholars from China and around the world recently gathered to celebrate the fifth anniversary of the Chinese Anti-monopoly Law (AML).¹ While enjoying a rooftop view of the Forbidden City, the celebrants were treated to a puppet show featuring colorful paper cutouts illuminated from behind as they danced and fought behind an opaque screen. The puppets acted out famous Chinese legends adapted to depict recent cases by the Chinese anti-monopoly authorities, such as the Moutai white liquor resale price maintenance cases.² As charming as this puppet show was to witness, it also served as a metaphor for the proceedings at the forum that preceded the celebration. Some commentators have complained that too often the Chinese anti-monopoly authorities themselves operate behind a screen, providing parties and other observers little insight into their thinking or deliberations. At the conference marking the fifth anniversary of the AML, however, the leaders of the Chinese antitrust authorities and several prominent Chinese scholars provided greater illumination of their thinking than we have previously witnessed.

Illuminating the Actions Behind the Screen

The China Competition Policy Forum—Competition Policy in Transition, held in Beijing on July 31 and August 1, 2013, was hosted by the Expert Advisory Board of the State Council on the Anti-monopoly Commission (Expert Advisory Board). The Expert Advisory Board, which is comprised of 21 experts including jurists, economists, and industrial specialists, plays an important role in the Chinese antitrust system. It consults with the three anti-monopoly agencies³ and the member agencies of the Anti-monopoly Commission, providing advice on competition policy and legal issues and analysis in specific cases.

The structure of the forum itself, as well as the speeches and interactions among panelists, illuminated three major themes. First, the presentations and discussions by Chinese officials and scholars proved to be a surprisingly open conversation. They did not shy away from controversial areas, such as merger review and remedies and the treatment of intellectual property (IP) rights,

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Maureen K. Ohlhausen
 is Commissioner,
 U.S. Federal Trade
 Commission. The views
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¹ Anti-monopoly Law of the People's Republic of China (promulgated by the Standing Comm. Nat'l People's Cong., Aug. 30, 2007, effective Aug. 1, 2008), 2007 STANDING COMM. NAT'L PEOPLE'S CONG. GAZ 68 (China), available at <http://english.mofcom.gov.cn/article/policy/release/announcement/200712/20071205277972.html>.

² In February 2013, Chinese anti-monopoly regulators fined China's two top liquor firms, Kweichow Moutai Co. and Wuliangye Group, for engaging in resale price maintenance. See Chen Dujuan, *Liquor Firms Hit with Monopoly Fines*, GLOBAL TIMES, Feb. 19, 2013, <http://www.globaltimes.cn/content/762756.shtml>.

³ The three Chinese anti-monopoly agencies are the Ministry of Commerce (MOFCOM), the National Development and Reform Commission (NDRC), and the State Administration for Industry and Commerce (SAIC).

and they intentionally included divergent views, some of which offered strong criticism of the current Chinese approach. Second, the proceedings indicated a serious interest in promoting competition as a societal value and developing a modern competition regime, expressed not only by the Chinese antitrust officials but also by other Chinese government officials. Third, although there was widespread recognition that China must continue to move away from a planned economy, including by challenging administrative monopolies, there was still some support for the government playing a strong role in the market in certain industries, as well as for the consideration of non-competition factors in antitrust matters. Notably, all participants expressed enthusiasm for competition in general, but what actually constitutes free market competition is still open for debate, with some officials seeming to focus more on static competition factors, such as simply expanding or maintaining the number of competitors in a particular market, rather than considering longer-term effects on innovation and consumer welfare.

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Shining a Light

The forum's showcase panel, which was broadcast by China Central Television (CCTV), featured Shang Ming, Director-General (DG) of the Anti-monopoly Bureau of MOFCOM; Xu Kunlin, DG of the Price Supervision and Inspection and Antitrust Bureau of NDRC; and Ren Airong, DG of the Anti-monopoly and Anti-unfair Competition Enforcement Bureau of SAIC. Joining these antitrust officials were two prominent professors, Dr. Huang Yong, Vice Chair of the Expert Advisory Board, and Chinese economist Professor Wu Jianglian. In a wide-ranging discussion, these officials and professors explored the approaches and thinking of the Chinese antitrust authorities on a variety of topics.

The history of Professor Wu, one of China's most famous economists, provides a crucial backstory. With a strong market orientation, Professor Wu was a brave voice in the 1970s, advocating for a market economy and economic reform in China in the face of government resistance. After suffering persecution in the Cultural Revolution, he later emerged as a prominent voice in China's economic reform program. At a presentation at Chatham House in London in late 2012, Professor Wu identified a variety of problems with the current Chinese economic system, including the continuing role of state-owned enterprises, government interference with the economy, and deficiencies in the rule of law, all of which have contributed to an economic system that is semi-controlled and semi-market driven.⁴ This system, he stated, has two major problems: (1) an export-driven approach that has generated a shortage of resources, damage to the environment, and an imbalance of investment and consumption; and (2) too much power for administrators, which has led to the spread of corruption and rent-seeking activities.⁵ Professor Wu's prescription for these ills is a reform whereby "the government would gradually reduce its intervention in economic activities" and transform into a more market-oriented economy based on the rule of law.⁶

During the panel in Beijing, Professor Wu strongly advocated his viewpoint in exchanges with the antitrust officials. He observed that although enactment and development of the AML has been generally positive, it alone is not enough, and that China needs to do more to establish a competitive system with the market at its core. He identified administrative monopoly as a continuing

⁴ Professor Wu Jinglian, Senior Research Fellow, Dev. Research Ctr. of the State Council, China, Remarks at Chatham House: Challenges for China's Economic Policy and System Reform 3–9 (Dec. 3, 2012), available at <http://www.chathamhouse.org/sites/default/files/public/Meetings/Meeting%20Transcripts/031212China.pdf>.

⁵ *Id.* at 4–5.

⁶ *Id.* at 5.

problem, as well as interventions by the government to set prices for items such as staple consumer products. In addition, he noted that the imposition of hurdles to market access is another major economic problem, which the AML on its own cannot address.

In addition to the showcase, other panels offered more revelations by Chinese officials and scholars on some controversial issues, such as the panel on IP rights and antitrust. Again demonstrating a commitment to fostering open debate on these issues, the panel included a diversity of viewpoints, from SAIC officials and Chinese and American scholars to representatives of U.S. enforcement agencies, law firms, and companies that have strong IP interests.⁷

Yang Jie, Director of the Anti-monopoly and Anti-unfair Competition Enforcement Bureau of SAIC, opened the IP and antitrust panel by describing SAIC's efforts to find the right balance between IP rights and antitrust. She highlighted SAIC's issuance of numerous versions of its draft guidelines on IP rights⁸ and its solicitation of comments from domestic and international observers.⁹ Director Yang also gave examples of what SAIC considered problematic conduct, such as tying, indiscriminate warning letters, and refusals to license. She stated that the refusal to license prohibition, contained in Article 8 of the guidelines,¹⁰ was something like the essential facilities doctrine in U.S. and EU case law.

I was invited to speak on the essential facilities doctrine in the U.S. antitrust system with the goal of clarifying that the U.S. Supreme Court has not recognized such a doctrine. During a previous visit to China, several Chinese commentators suggested to me that the Chinese antitrust regulators should adopt the essential facilities doctrine to reflect what they believe exists in U.S. case law. As part of a presentation that focused primarily on *Trinko*,¹¹ I discussed the Court's observations that forced sharing may lessen the incentives for innovation that ultimately improve consumer welfare.

In response, some commentators, including Professor Wang Xianlin of Shanghai Jiao Tong University, suggested that regardless of the status of the essential facilities doctrine in U.S. case law, it would still be a useful approach under the Chinese AML. Judge Zhu Li of the Supreme People's Court, however, emphasized that although IP rights may restrict competition in the short term, this is in exchange for a higher form of competition in the future through innovation. Judge Zhu further asserted that one must consider the risks and expenses of creating new inventions

⁷ The IPR/Antitrust Crossroad Panel was chaired by Ren Airon, Director-General of the Anti-monopoly and Anti-unfair Competition Enforcement Bureau of SAIC, and Daniel Sokol, Visiting Professor, University of Minnesota Law School. The panelists were Yang Jie, Director, Anti-monopoly and Anti-unfair Competition Enforcement Bureau of SAIC; Maureen K. Ohlhausen, Commissioner, U.S. Federal Trade Commission; Zhu Li, Judge, Supreme People's Court of the People's Republic of China; Roy Hoffinger, Vice President, Qualcomm Incorporated; H. Stephen Harris Jr., Partner, Baker & McKenzie; and Wang Xianlin, Professor, Shanghai Jiaotong University School of Law.

⁸ See, e.g., State Administration for Industry and Commerce of the People's Republic of China, Rules of the Administration for Industry and Commerce on the Prohibition of Abuses of Intellectual Property Rights for the Purposes of Eliminating or Restricting Competition (sixth draft 2013) [hereinafter Draft SAIC IP Guidelines].

⁹ SAIC has indeed been responsive to comments on the Draft SAIC IP Guidelines. The latest iteration of the guidelines (now styled as regulations) reflects numerous improvements, although some areas still raise concerns, such as the prohibition on unilateral refusals to license when the IP holder is a "necessary facility for the licensee to compete." See, e.g., Darren Tucker, *Inside the Latest Draft of SAIC's IP Antitrust Rules*, Law 360, Aug. 6, 2013, <http://www.law360.com/competition/articles/461987/inside-the-latest-draft-of-saic-s-ip-antitrust-rules> (discussing this prohibition and identifying several other provisions as potentially problematic).

¹⁰ Draft SAIC IP Guidelines, *supra* note 8, at 4–5.

¹¹ *Verizon Commc'ns, Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398, 411 (2004) (addressing an essential facilities argument and stating that "[w]e have never recognized such a doctrine, and we find no need either to recognize it or repudiate it here") (internal citations omitted).

when evaluating the prices charged for licensing IP. Other panelists, such as Roy Hoffinger of Qualcomm, who discussed issues surrounding standard-essential patents and fair, reasonable, and non-discriminatory (FRAND) commitments, and H. Stephen Harris, Jr. of Baker and McKenzie, who addressed the relationship between antitrust law and IP law, also highlighted the important role of IP protections in spurring competition.

Competition Currently Has the Leading Role

In the opening panel of the conference, numerous high-level Chinese officials emphasized the importance of competition in the Chinese economy.¹² One after another, they stressed the vital role of the market in allocating resources and observed that deregulation continues to be an important focus of reform. Wang Chao, Secretary-General of the State Council Anti-monopoly Commission and Vice Minister of Commerce, spoke of the need to break down barriers to competition to improve the Chinese economy. Zhang Qiong, Chairman of the Expert Advisory Board, emphasized that economic development depends on competition and market orientation.

Numerous speakers also focused on the importance of raising Chinese society's awareness of competition issues. Following the storytelling axiom of "show, don't tell," this goal of conveying the importance of competition to the public was most strongly expressed by the fact that Yao Zhenshan, a famous presenter from CCTV, hosted the showcase panel, which was aired in its entirety on Chinese television.

As noted above, the forum did not merely laud the accomplishments of the Chinese antitrust authorities in the five years of the AML's existence. Many speakers throughout the forum also identified challenges ahead. Zhang Qiong characterized China's competition regime as still being at an early stage and in need of continued improvement in both the theory and practice of antitrust enforcement. Professor Wang Xiaoye of the Chinese Academy of Social Sciences and Hunan University stated that the three current antitrust enforcement bodies were insufficiently independent because they are at the same administrative level of other ministries. Echoing this point, Professor Huang agreed that China needs a single competition agency at a higher administrative level than the three current agencies.

Officials also demonstrated an encouraging openness to ongoing engagement with more developed competition regimes and international scholars to continue to improve antitrust policy and institutions in China. For example, Sun Hongzhi, Vice Minister of SAIC, encouraged working closely with international organizations, noting that China needed the intellectual support of scholars in China as well as around the world.

The Plot Gets Complicated

Returning to the showcase panel, despite Professor Wu's advocacy for a stronger market-based approach, the antitrust officials were more mixed in their endorsement of free-market competition, with several officials emphasizing the need for maintaining regular market order. Although these discussants did not specify what this might mean in practice,¹³ in response to an audience ques-

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¹² The Opening Panel was chaired by Huang Yong, Professor, University of International Business and Economics, and Vice Chair of the Expert Advisory Board. The panelists were Wang Chao, Secretary-General of SAIC, Vice Minister of Commerce; Sun Hongzhi, Vice Minister of SAIC; Liu Shiyu, Deputy Governor of the People's Bank of China; Hu Zucui, Vice Chairman of NDRC (Director-General Xu Kunlin spoke for him); Zhang Qiong, Chairman of the Expert Advisory Board; and Wang Ling, Chairwoman, School Administration Committee of the University of International Business and Economics.

tion, one official stated that a cartel should be allowed in exceptional cases if participants in an industry are losing money. Another official stated that competition is a double-edged sword that, if badly used, will diminish innovation.

One of the most interesting exchanges occurred between DG Shang Ming and Professor Wu regarding the hold separate agreement in the Western Digital merger case.¹⁴ DG Shang defended the decision, stating that it was necessary to maintain five players in the market to protect the welfare of China's consumers. He emphasized that China does not produce hard disks, but it is the biggest consumer of them. Professor Wu criticized this approach as being too focused on the number of players in the market rather than on competition overall. He observed that the market and players may change over time and that they should change based on relative efficiencies. In addition, Professor Wu emphasized that for the hard disk industry one does not need to see more producers of the same technology, but rather that competition should spur innovation in new devices and solutions, which is ultimately better for consumers.

Harkening to China's past as a centrally planned economy, several panelists highlighted the problem of administrative monopolies. Expert Advisory Board Chairman Zhang Qiong noted the tension between industrial policy and market-based competition growth, stating that he deems the latter necessary to achieve sustainable development. Similarly, SAIC Vice Minister Sun Hongzhi stressed that the AML was meant to focus on administrative monopoly as well as abuse of dominance in the private sector. Professor Wu observed that many legacy problems remain from China's past and that in many industries there are still hidden interests and protections, which seem contradictory to the goals of the AML. He emphasized that these hurdles to free competition were imposed at the direction of the country's political leadership, not on the advice of competition scholars.

Some important action is taking place offstage, however. Not discussed during the panel was the fact that, in January of this year, a group of 12 ministries led by the Ministry of Industry and Information Technology and including the three anti-monopoly agencies, issued guidance calling for consolidation in nine industries: automobiles, steel, cement, shipbuilding, electrolytic aluminum, rare earths, electronic information, pharmaceuticals, and agricultural processing.¹⁵ The Guiding Opinions call for the consolidation of participants in each of these industries into a small-

¹³ Article 4 of the AML provides that the State shall formulate and implement competition rules that improve a unified, open, competitive, and orderly market system. AML, art. 4. In a statement made in connection with its enforcement action imposing fines on six manufacturers of infant formula, NDRC stated that the fines were for restricting competition, resale price maintenance, and for using a variety of methods to disrupt market order. *See, e.g., China Says Fined Milk Powder Companies "Disrupted Market Order,"* REUTERS, Aug. 7, 2013, <http://www.reuters.com/article/2013/08/07/china-milkpowder-ndrc-idUSB9N0FP02K20130807>.

¹⁴ Press Release, Ministry of Commerce of the People's Republic of China, MOFCOM Held Special Press Conference on "Anti-monopoly Work Progress in 2012" (Jan. 5, 2013), available at <http://english.mofcom.gov.cn/article/newsrelease/press/201301/20130108513014.shtml>. MOFCOM approved the acquisition of the hard disk drive (HDD) business of Viviti Technologies Ltd., formally known as Hitachi Global Storage Solutions Ltd., by Western Digital subject to the divestiture of production assets and several behavioral remedies. *Id.* MOFCOM imposed the following remedies: Western Digital shall divest Hitachi's 3.5-inch HDD production assets to a third party; Hitachi's HDD business shall be operated as an independent competitor with respect to, in particular, R&D, procurement, production and sales, safeguarded by firewalls between their respective teams; and Western Digital and Hitachi shall not force consumers to buy products exclusively from them. *Id.*

¹⁵ Lester Ross & Kenneth Zhou, Chinese Government Plans Consolidation of Domestic Industry (Jan. 28, 2013), <http://www.wilmerhale.com/pages/publicationsandnewsdetail.aspx?NewsPubId=10737420194>; *see also* Ministry of Industry and Information Technology of the People's Republic of China, Guiding Opinions Concerning the Accelerated Advancement of Enterprises in Key Point Industries Through Merger into Concentrated Groups (Jan. 22, 2013) (in Mandarin) (Guiding Opinions), available at <http://www.miit.gov.cn/n11293472/n11293832/n11293907/n11368223/15130615.html>.

er number of large, globally competitive enterprises.¹⁶ Although consolidation itself, if driven by market forces, may not necessarily be antithetical to competition values, this effort by government to spur consolidation in key industries for purposes of global competitiveness of Chinese industries certainly raises questions whether the free market or the government will be the primary driver of the Chinese economy, at least in these particular industries.

What Will the Sequel Be?

In a keynote speech at the forum, I congratulated the Chinese anti-monopoly agencies on their strong efforts thus far, such as their increasingly sophisticated economic and legal analysis.¹⁷ I also identified three areas in which I hope we will celebrate more progress in the future:

1. Non-Competition Factors. Article 27 of the AML, which covers merger control, sets out the factors for MOFCOM to consider when deciding whether or not to approve a merger.¹⁸ Three factors are consistent with modern competition analysis: market concentration, share, and power; effects on entry and technological innovation; and effects on consumers. The last two factors, however, expressly allow for broader considerations: the effect of the proposed deal on the development of the national economy, and any other factors determined by the State Council Anti-monopoly Enforcement Authority.¹⁹ Although it is difficult to draw conclusions about whether and to what extent MOFCOM has relied on non-competition factors in its merger analysis because of the small number of published merger decisions under the AML, some practitioners have expressed concerns that factors such as protectionism and employment effects within China have influenced merger review, with regard to both the length of the review process and outcomes.²⁰ Practitioners have also reported, however, that MOFCOM's analysis has shown an increased focus on traditional competition factors as the agency has gained experience.²¹

In my keynote address, I encouraged the Chinese competition authorities to show consistent movement away from considering non-competition factors in their decisions, which will help promote predictability, fairness, and transparency in their decision making.²²

2. Transparency. I applauded the disclosures that MOFCOM and DG Shang made recently with respect to merger filings and reviews, as well as SAIC's publication of a list of all 12 AML decisions it has reached thus far. Increased transparency with the public and parties under investigation is an important value to pursue for any antitrust agency.

3. International Engagement. In July 2011, the FTC and the Antitrust Division signed a Memorandum of Understanding (MOU) with MOFCOM, NDRC, and SAIC that establishes a framework for cooperation between the U.S. and the Chinese agencies through a joint dialogue among the senior competition officials at all five agencies and communication and cooperation between indi-

¹⁶ Ross & Zhou, *supra* note 15.

¹⁷ See Maureen K. Ohlhausen, Commissioner, Fed. Trade Comm'n, Nurturing Competition Regimes: Evaluation and Evolution, Remarks at the China Competition Policy Forum—Competition Policy in Transition 5 (July 31, 2013), available at <http://www.ftc.gov/speeches/ohlhausen/130731compolicychina.pdf>.

¹⁸ AML, art. 27. Article 1 of the AML also sets out as a goal of the law "safeguarding the . . . social public interest [and] promoting the healthy development of the socialist market economy." AML, art. 1.

¹⁹ AML, art. 27.

²⁰ See D. Daniel Sokol, *Merger Control Under China's Anti-Monopoly Law*, N.Y.U. J.L. & Bus. (forthcoming 2014).

²¹ *Id.*

²² Ohlhausen, *supra* note 17, at 11.

[T]he open debate at the forum likely reflects a conversation going on behind the screen in China, with some voices arguing for increased market orientation and others favoring a hybrid system that includes greater government involvement in the market. If so, it is vital to help support those within the Chinese antitrust community who are advocating for a market system and to understand the challenges they face in their efforts.

vidual agencies at the senior or working level.²³ In addition to the MOU, the U.S. agencies and MOFCOM have developed a *Guidance for Case Cooperation*,²⁴ which establishes a framework for cooperation in merger cases. Further, the Chinese agencies have MOUs or similar arrangements with the EU and the U.K. Office of Fair Trading, among others.²⁵ Officials from MOFCOM, NDRC, SAIC, and other Chinese government entities are devoting substantial resources to studying foreign competition enforcement through formal technical assistance and exchange programs, secondment of personnel to foreign agencies, and direct exchanges with foreign practitioners, scholars, and industry groups.

In my keynote remarks, I commended the Chinese competition agencies for their international engagement thus far. I also urged them to become members of the International Competition Network and contribute their learning to the group in helping us shape best practices, as well as to continue bilateral engagement with other agencies on merger reviews and other investigations. This engagement permits us to move together to become better competition enforcers and to protect the interests of consumers around our increasingly interconnected world.

Much of what took place at the forum makes me hopeful of continued progress by the Chinese competition authorities in several of these areas. The most promising is transparency, given the high level and open debate, the active inclusion of critical viewpoints from within China and abroad, and the willingness to focus on controversial areas. The Expert Advisory Board and especially Professor Huang, who organized the conference, deserve enormous credit for their efforts in this area. The interest in increased international engagement also seems to be trending in a positive direction. Many high-level government speakers mentioned the need for additional international engagement in their remarks, both with scholars and other antitrust regimes.

The likelihood of further movement away from considering non-competition factors under the AML presents a more mixed picture. On the positive side, one of the strongest messages of the conference was that Chinese government officials and scholars understand that competition offers the best path forward for their country. One should not overlook how remarkable this is, given the

²³ See Press Release, Fed. Trade Comm'n, Federal Trade Commission and Department of Justice Sign Antitrust Memorandum of Understanding with Chinese Antitrust Agencies (July 27, 2011), available at <http://www.ftc.gov/opa/2011/07/chinamou.shtm>; see also Memorandum of Understanding on Antitrust and Antimonopoly Cooperation Between the United States Department of Justice and Federal Trade Commission, on the One Hand, and the People's Republic of China National Development and Reform Commission, Ministry of Commerce, and State Administration for Industry and Commerce, on the Other Hand (July 27, 2011), available at <http://www.ftc.gov/os/2011/07/110726mou-english.pdf>. The MOU identifies several specific avenues for cooperation, including: (1) exchanges of information and advice about competition law enforcement and policy developments; (2) training programs, workshops, and other means to enhance agency effectiveness; (3) exchanges of comments on proposed laws, regulations, and guidelines; and (4) cooperation on specific cases or investigations, when it is in the investigating agencies' common interest. *Id.* at 2.

²⁴ Guidance for Case Cooperation Between the Ministry of Commerce and the Department of Justice and Federal Trade Commission on Concentration of Undertakings (Merger) Cases, Fed. Trade Comm'n (Nov. 29, 2011), available at <http://www.ftc.gov/os/2011/11/111129mofcom.pdf>.

²⁵ Memorandum of Understanding on Cooperation in the Area of Anti-monopoly Law Between the European Commission and the National Development and Reform Commission and the State Administration for Industry and Commerce of the People's Republic of China (Sept. 20, 2012), available at http://ec.europa.eu/competition/international/bilateral/mou_china_en.pdf; Memorandum of Understanding on Anti-Monopoly Cooperation between the Ministry of Commerce of the People's Republic of China and the Office of Fair Trading of the United Kingdom (Apr. 17, 2012), available at http://www.offt.gov.uk/shared_offt/about_offt/international/OFT-MOFCOM_MoU.pdf; Memorandum of Understanding on Cooperation between the Office of Fair Trading of the United Kingdom of Great Britain and Northern Ireland and the State Administration for Industry and Commerce of the People's Republic of China (Mar. 21, 2011), available at http://www.offt.gov.uk/shared_offt/about_offt/international/MoU_with_China_SAIC.PDF; Memorandum of Understanding between The Office of Fair Trading of the United Kingdom of Great Britain and Northern Ireland and National Development and Reform Commission of the People's Republic of China (Jan. 10, 2011), available at http://www.offt.gov.uk/shared_offt/about_offt/international/China.pdf.

Chinese government's suppression of market-oriented viewpoints during the Cultural Revolution and the personal experiences of forum participants, most notably Professor Wu. Despite this emphasis on moving away from a planned economy and toward a market system, the discussions still revealed a continuing impulse to factor in effects on Chinese industry and employment rather than focusing simply on efficiency and consumer welfare, as well as ongoing support for more direct government intervention in the market.

This raises a final question: what can we outside observers do to encourage a satisfactory sequel to the first five years of the AML? I believe that the open debate at the forum likely reflects a conversation going on behind the screen in China, with some voices arguing for increased market orientation and others favoring a hybrid system that includes greater government involvement in the market. If so, it is vital to help support those within the Chinese antitrust community who are advocating for a market system and to understand the challenges they face in their efforts. Thus, the most important thing that we in the audience can do toward ensuring a good sequel for the Chinese antitrust story is to pursue patient cooperation and diligent work on both sides when engaging the Chinese agencies, offering them advice and support, and advocating for a competition-based enforcement approach. ●