

COMPETITION POLICY ENFORCEMENT IN CHINA

QIAN Jiwei

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Executive Summary

1. More than 100 countries have adopted competition law. China is now one of the major jurisdictions for competition laws in the world by virtue of the size of its economy.
2. Since the 1980s, the many negative effects of monopoly power have prompted the government to step up laws and regulations to tackle the problem.
3. In 2008, the most systematic competition law, Anti-Monopoly Law (AML), was enacted. In this law, monopolistic behaviours including collusive agreement, vertical restrictions, abuse of market dominance and administrative monopoly have been defined and sanctions for corresponding behaviours specified.
4. Enforcement comes under three major government agencies. The National Development and Reform Commission is charged with enforcing price-related collusive agreements and the abuse of a dominant position.
5. The State Administration for Industry and Commerce is the enforcer for non-price-related abuse of a dominant position and collusive agreements involving non-price coordination. Merger control provisions come under the Ministry of Commerce.
6. Since 2013, both the penalties and share of fines under the AML in the total turnover of involved firms have escalated, with total penalties amounting to over RMB10 billion.
7. Competition policy enforcement has seen a dip in consumer prices for selected products and services and an increase in economic analyses to understand the welfare impact of the monopoly practices.
8. The role of competition policy in establishing nationwide integrated market and promoting innovation in small and medium-sized enterprises has been emphasised in the recently enacted government regulations.

9. Remaining issues include the conflict between industrial policy and competition policy, the lack of capacity for public agencies and the phenomenon of “regulatory capture” where the regulators represent the interests of the regulated.