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## **Legal News**

### **China New Draft Rules on Monopoly Agreements and Abuse of Dominant Position**

On May 27 2010 the China State Administration of Industry and Commerce (SAIC) published for public comment new draft regulations on monopoly agreements, abuse of dominant position and administrative monopoly. Within China's antitrust law enforcement system, the SAIC has a mandate to condemn non-price-related monopoly agreements, non-price-related abuse of dominant position and administrative monopoly.

### **China Further Clarification on LAT Reconciliation Announced**

The China State Administration of Taxation (SAT) has recently issued two tax circulars to further clarify issues concerning the final settlement of the Land Appreciation Tax (LAT) and require the local tax authorities to strengthen the LAT collection and administration, including LAT pre-payment and final settlement. More information about these new circulars is available from our office.

### **China's New State Secrets Law to Come into Force**

China's long anticipated amended Law on Guarding State Secrets will finally come into force on October 1, 2010. The New Law has introduced substantial changes to the current law, with a number of changes aimed at protecting the storage, handling and transfer of "state secrets" in this information technology age of computers, the Internet, and wireless communications. The definition of "state secrets" is still relatively vague in nature, although excessively wide.

### **Interim Measures on Network Commodities Trading and Related Services**

In order to promote a healthy development of network commodity trading services, the State Administration for Industry & Commerce promulgated the Interim Measures on Network Commodities Trading and Related Services on May 31, 2010. It came into force on July 1, 2010. It was devised to protect both consumer's and operator's legitimate rights, to build up good relationships between buyers and sellers, and "to cultivate convenient, safe

and reliable atmosphere for online consumption”, and to keep order among operators.

### **IT Disclosure Regulations Raise Foreign Concerns**

China's new regulations that require IT vendors engaged in supplying the government to disclose details of encryption technologies have raised eyebrows in some foreign firms. The government launched a new regulation on May 1 that requires IT firms from China and abroad to share their encryption technology with officials if they want supply products to government agencies. It remains to be seen as to how consistently this new regulation is enforced, and what level of detail the government will require to be disclosed.

### **Mainland, Taiwan Sign Agreement on IPR Protection**

Mainland China and Taiwan negotiators have signed an agreement on intellectual property rights protection. The mainland and Taiwan will increase exchange and cooperation to boost protection of patents, trademarks, copyrights and plant variety right under the agreement. The agreement aims to establish a long-term mechanism to fight the pressing problems of online piracy, patent imitation and preemptive trademark registration. With Greater China widely recognized as the driving force behind worldwide counterfeiting, the agreement has been welcomed by IP owners around the world.

### **Party Pledges Greater Transparency**

The first spokesman of the low-profile Organization Department of the Communist Party of China Central Committee made his debut, promising to increase transparency in Party affairs in the future. Deng Shengming, the department's secretary general, made his first public appearance at a press conference held at the department's building in central Beijing. The Organization Department of the CPC Central Committee controls most of the Party's significant personnel assignments and large-scale State-owned enterprises throughout the country. Its influence at the microeconomic level is significant.

### **Court Rules on China's Biggest-ever Smuggling Case**

A member of a group of smugglers, was caught smuggling mobile phones and devices into China, as part of an illegal enterprise that was worth more than

Rmb1.06 billion and resulted in the group evading over Rmb154 million in tax. This smuggling case is the largest in Chinese history, involving over 100,000 smuggled mobile phones. The Zhuhai Intermediate People's Court sentenced Lao to 15 years' imprisonment and confiscated property to a value of Rmb500, 000, as part of its judgment regarding this operation. Investigations into other aspects of the smuggling network are continuing.

### **China Issues New Regulation for Online Games**

On June 3, 2010, the China Ministry of Culture issued a regulation called “Tentative Rules on Administration of Online Games”. The new rule highlights that online game players should register their real names before participating in virtual competitions in cyberspace. This rule applies to the development and operation of online game, issuance of virtual currency for online games as well as virtual currency transaction services. Meanwhile, a number of other Chinese ministries continue to jockey for dominance in the regulation of the online game industry in China.

### **China Scraps Steel Export Tax Rebate**

The Chinese Ministry of Finance has announced plans to scrap a tax rebate previously available on exports of a range of commodities, including various forms of steel. The Chinese ministry on June 23 approved scrapping export tax rebates on about 406 products, starting July 15. In addition to steel, some non-ferrous metals, fertilizers, plastics, rubber and glass products were also excluded from the export tax rebate.

## **Business News**

### **Carlsberg Raises China Brewer Stake**

Danish brewer Carlsberg has agreed to raise its stake in China's Chongqing Brewery Company (CBC) to nearly 30 percent for about \$378.7 million to further its Asian expansion. It will increase its stake in CBC to 29.71 percent from 17.46 percent. CBC operates 15 breweries in China and produced about 10 million hectoliters of beer in 2009, and is the market leader in Chongqing and operates in surrounding Sichuan, Guizhou, Guangxi and Hunan and in the eastern Chinese provinces of Anhui, Zhejiang and Jiangsu.

### **China CDB's 2009 Net Profit Surges 54%**

China Development Bank's 2009 net profit jumped 54 percent year-on-year on increased lending. Its net profit for 2009 hit RMB 31.9 billion. The bank attributed the profit surge mainly to its increased loans to the country's rural infrastructure construction driven by the government's policy to boost domestic demand. Its outstanding foreign exchange loans reached \$97.4 billion last year, 32.9 billion more than that of 2008, and the non-performing loan ratio stood at 0.94 percent for 2009, compared with 0.96 percent for 2008.

### **China CPI Breaks 3%**

China's consumer price Inflation in May breached the psychologically important 3% level, the government's full-year target, for the first time this year, even as other indicators showed slowing growth in economic activity. The country's consumer-price index rose 3.1% in May from a year earlier, accelerating from April's 2.8% rise. The rise was slightly higher than the median forecast of a 3.0% rise in a poll of 12 Economists.

### **Chinese Bank Launches World's Biggest Share Offer**

The Agricultural Bank of China kicked off a share offer worth a world-record 23.2 billion dollars as China strives to develop depressed regions in the rural lender's heartland. AgBank, the last of China's "big four" state banks to list, plans to float its shares in Hong Kong and Shanghai later this month with the IPO on track to overtake the previous record of 22

billion dollars set by Industrial and Commercial Bank of China in 2006.

### **HK Seeks a New Edentity**

According to the Hong Kong census and statistics department, there is increasing concern about the SAR's over-reliance on services-particularly its financial sector. The Hong Kong SAR government is to some extent now trying to turn back the clock and diversify the economy. The SAR's chief executive is intent on fostering six new sectors of the economy in such areas as education services, state-of-the-art hospitals aimed at mainlanders, testing and certification services, environmental industries, innovation and technology, and creative industries.

### **Google Ends Redirection in Bid to Renew Mainland Internet Licence**

Google said it will stop automatically redirecting Web searchers on the mainland to an uncensored portal in Hong Kong as it hopes to convince Beijing to renew its operating licence in the world's largest internet market. Users are now required to click anywhere on the Google.cn page in order to get redirected to the Google Hong Kong search site, instead of being automatically rerouted. The new Google page is extremely simple, with an image of the Google logo and a non-functioning search box.

### **IBM Buys Stake in China's Bright Oceans**

Bright Oceans Inter-Telecom announced that its shareholder Bright Oceans Corp. sold 5.91 million shares, or 1.05 percent stake, to IBM's China unit for RMB 49.999 million. BOCO Inter-Telecom, a China-based high-tech firm offering software products, total solutions, and services in telecommunication and transportation industries, closed down 7.24 percent Wednesday at RMB 8.71 per share, and the shares were sold at RMB 8.45 per share, representing a three percent premium.

### **China Reports Big Rise in Auto Sales in Jan-May**

China's automakers saw sales in the first five months of this year rise 53.25 percent from a year earlier. From January to May, auto sales exceeded 7.6 million units, averaging sales of 1.5 million units a month. Auto production for the period also grew, by 55.59 percent to 7.53 million units, and Auto sales for the month of May rose 28.35 percent year on year to 1.43 million units. The good performance of the automobile market in the first five months of this year has laid

### **China Unicom in Talks with Apple over iPhone 4**

China Unicom said on it is in talks with Apple Inc to introduce the US company's new iPhone 4 to China. China's second-largest cellphone carrier also said there has been a "very satisfactory" surge in iPhone sales since Unicom cut product prices and reduced monthly fees for some of its third-generation (3G) services last month. However, no timetable has been set for the iPhone 4 launch in China, as the product needs to be tested and get approval from China's telecom industry regulator first.

### **Foxconn Plans Plant with 300,000 Workers in China's Henan Province**

Foxconn Technology Group, the contract maker of Apple Inc iPhones and Hewlett-Packard Co computers, plans to establish a factory with 300,000 workers in central China's Henan province. After completing training, the workers will have the option of returning to work in Henan. Of the 800,000 workers Foxconn has in China, 157,000 of them are from Henan.

### **China Hiring Plans Hit 6-Year High**

Hiring plans by mainland employers surged to a six-year high on growing optimism about the nation's economic expansion, even as analysts warned of more labor shortages in first-tier cities. More than 30 percent of mainland employers plan to increase their workforce in the third quarter, making China one of the most promising job markets in the world after India and Brazil. The figure was only around 10 percent for the same period of last year.

### **NFC Ready to Jump on the M&A Trail**

China Nonferrous Metal Industry's Foreign Engineering and Construction Co (NFC) is planning

more overseas mergers and acquisitions to expand its mineral wealth. NFC is also boosting its presence in mineral-rich nations like Canada and Australia through stake buys to have bigger bargaining power in the global arena. In Canada and Australia, NFC aims to buy minority stakes in local mining companies to accumulate experience.

### **Shanghai GM Recalls 4,199 Imported Cadillacs**

General Motors' joint venture in China, Shanghai GM, recalled about 4,000 imported Cadillac vehicles over fire risks, from June 9. The recall involves 4,199 vehicles: 1,032 Cadillac Escalades and 3,167 cars of the 2007-2009 Cadillac CTS model. The reason is that the unit that heats the windshield washer fluid could catch fire. General Motors Co on Tuesday announced a recall of about 1.5 million trucks, crossovers and cars due to the same defect.

### **Baidu Looks to Capture 79% of China Market By Next Year**

Baidu Inc. is targeting search growth to 79 percent market share of China by next year. The China-based Internet search company has benefited greatly from the controversies involving Google Inc., the worldwide Internet search leader, from the world's most populous nation earlier this year. Baidu's Internet search market share in China jumped from 58.4 percent to 64 percent from the last quarter of 2009 to the first of this year, as Google's market share dipped in the country to 30.9 percent from 35.6 percent.

### **Hongkong Signs Comprehensive Double Taxation Agreements with the United Kingdom and Ireland**

Hongkong signs comprehensive double taxation agreements (CDTAs) with the United Kingdom and Ireland respectively. This brings the number of CDTAs concluded by Hong Kong to 13. The CETAs enhance Hong Kong's role as a financial and investment hub in the Asian region. Once these treaties are in force, they will give Hong Kong residents alternative investment routes when considering business and investment opportunities outside of Hong Kong.

### **VW Teams up with FAW for New Car Unit**

Volkswagen AG (VW), Europe's largest carmaker, will spend 520 million euros to add a 10th plant in China as the country's car demand booms. The new factory in Foshan, Guangdong province, will assemble 300,000 vehicles annually and open in 2013. The plant is part of VW's plan to double production capacity in China to 3 million vehicles within four years as the carmaker invests 6 billion euros in the country. Automakers are expanding in China, which surpassed the United States as the largest auto market last year.

*This update is aimed at keeping our clients informed of developments in Greater China. Whilst every care has been taken to ensure the accuracy of this update, it should not be relied upon before individual advice is obtained. The MMLC Group is an international legal and corporate advisory group.*