

LOOKING TOWARDS IMPLEMENTATION OF CHINA'S ANTI-MONOPOLY LAW

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Thank you for inviting me to join you this afternoon to discuss my perspective on China's new Anti-Monopoly Law. For the past three years I have been involved in extensive discussions concerning the development of the Law. As some of you have heard me say in other settings, I have been in Beijing over the period far more often than I have been in New York. And generally we're pleased with those discussions.

During the decade over which the Chinese government has been drafting the AML, the drafting process has been uncommonly open, as the government has sought input from the public, the business commun

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many necessary steps. The business community needs a realistic phase-in period for regulations that flesh out the contours of

those, too. If you look just at my agency's cases over the past few years, the FTC has devoted substantial resources to matters that require us to reconcile our competition intervention with the role of regulation – cases involving dentists, physicians, hospitals, natural gas. An entire section of our Web site is devoted to competition advocacy filings submitted to administrative regulators in industries such as law practice and real estate and alcohol.

Ultimately, the extent to which China uses the AML as a tool to promote competition, versus the extent to which it carves firms and sectors out from the statute, will say a lot about China's dedication to creating a market economy. The question is whether the AML will be a competition law or a law for the state regulation of competition. The answer will have broad implications.

Our experience with new regimes around the globe is that some of their decisions do not seem to make any economic sense. (I'll acknowledge that some critics and courts say the same thing about old regimes such as mine, too.) As China proceeds into the implementation phase, its enforcement agencies will move through a learning period. We may see decisions that appear to be questionable from the perspective of economic analysis as we understand it. It's possible that some of those decisions may reflect political challenges. And it's possible that some of those decisions may reflect cultural challenges. But it may be that those decisions reflect nothing more than the routine rough-and-tumble that we commonly see as competition authorities develop experience.

Thank you for your time this afternoon. I'll look forward to your questions.