Towards a Functioning Market Economy: China's New Antitrust Law

Having drawn on lessons from the US and European anti-competition experience, China's new Anti-Monopoly Law is a dramatic step forward. As always, the key will be how it will be implemented

Photo: CPW

On 30 August, 2007 China enacted its antitrust law, which will come into effect on 1 August, 2008. The law itself (known as the Anti-Monopoly Law (AML)) has during the past thirteen years of legislative process taken many twists and turns as it emerged from a series of drafts to final enactment. It has, at different times encapsulated virtually every possible goal of antitrust law, as expressed over the last century of antitrust implementation. However, in the various discussions that have surrounded the AML, it is important to note the impact of actually having a competition or antitrust law in a country that has hitherto relied on

the state to order or direct the market. While many questions remain about how the law will be implemented, we should not lose sight of the fact that this is a significant change from the old planned economy model that prevailed in China prior to its reform and opening up and subsequent WTO accession in 2001. The key question now is how the law will be implemented. Specifically, what steps will be taken to ensure that implementation leads to more competitive markets in China, less market distortion and achieving continued growth in a way that promotes people-centred growth as contemplated in recent China central government statements and policies.

In drafting the law authorities have drawn a number of lessons from the experience of the competition agencies in the US and the EU, where the manner of implementation of the competition law has changed dramatically during different periods of antitrust law enforcement.

Historical Lessons

It is worth reviewing these changes in to ascertain what lessons they hold for China and how the implementation of Chinese competition law is likely to unfold. In the US, there were three periods of antitrust enforcement under the Sherman Act: the period between 1890 and 1911, the time of the *Standard Oil of New Jersey v. United States*, 221 US 1 (1911); the period between Standard Oil and the 1970s; and the period after the 1970s. These three periods demonstrate radically different ways of looking at antitrust law and policy. When US antitrust law was enacted it was in reaction to the perceived power of private companies, in particular the large and powerful trusts, such as the steel, railroad and money trusts of the powerful banking institutions. However, even from its earliest days of enforcement the primary goal of the Sherman Act was to enhance consumer welfare.

Early cases considered the difficulty of dealing with the Sherman Act's seeming bar on all agreements that related to price (which could lead to a bar on any agreement as any agreement could be seen to be a restraint on trade). In *United States v Trans Missouri Freight Association,* 166 US 290 (1897) Justice Peckham came up with a rule that said that any horizontal price-cartel would be per se illegal because they would almost always lead to restraint of competition. Justice White, on the other hand, wanted to only punish horizontal price fixers if they set a price that was above some kind of reasonable price. In *Addyston Steel and Pipe Co v United States*, 85 F 271 (6th Cir 1898), the Government brought a case against cast-iron pipe manufacturers that had agreed to fix prices and divide up territories. Here, Judge Taft differentiated between vertical and horizontal restraints, applying a rule of reason to vertical restraints. In *Standard Oil*, Justice White focused on reduction of output caused by the monopolist, and thus, laid the foundations for consumer welfare to be the goal of competition analysis.

The next period, between 1911 and the 1970s was characterized in the US by a lack of focus on consumer welfare as the guiding principle and instead a focus on fragmented markets for the sake of fragmented markets, as if a market populated by small companies was some sort of good in and of itself. The Supreme Court in *United States v Aluminum Company of America*, 148 F 2d 416 (2nd Cir 1945); and *Dr Miles Medical Company v John D Park and Sons*, 220 US 373 (1911), and others stood for the proposition that consumer welfare was far from the dominant goal of the antitrust laws, indeed that there were other more important goals such as the preservation of a market of small players (at whatever cost), as well as social redistributive goals. Indeed the enactment of the Robinson-Patman Act, a statute that prohibited price discrimination was the low watermark of the economic aspects of competition enforcement under the US law, since price discrimination was usually consumer welfare and efficiency enhancing.

By the mid-1960s, commentators had realized what a self-destructive path US antitrust was on. By 1968, Harold Demsetz, a leading economist was writing that the Federal Trade Commission's goal of curbing market power in its incipiency was itself a highly dangerous exercise:

> We have no theory that allows us to deduce from the observable degree of concentration in a particular market whether or not the price and output are competitive. (See, Demsetz, *Why Regulate Utilities*, 11 J Law and Econ 55, 59-60 (1968))

Demsetz' point was that the process of competition was in and of itself a vital part of the business world. After this, US antitrust law became much more about consumer welfare, as courts and the agencies refrained from bringing bad cases where ➤

competitors did not like behaviour that was actually pro-consumer. An example of this was the virtual non-application of the Robinson-Patman Act, as it became clearer and clearer to economists that price discrimination had many positive virtues.

In the meantime, European law was going through a similar transition. It is worth pointing out that the European Commission Competition Directorate-General only appointed a Chief Economist in 2003. Here there could be important lessons for China. Early European competition law was hidebound by rules and was far too legalistic in its interpretation. Frequently, if a certain behaviour or practice could be said to be within a specific block exemption, then it would not be found to be a competition violation regardless of its actual impact in economic terms. The situation started to change after 1995, when a series of reforms were instituted by succeeding competition commissioners. European reforms notably included the Modernisation Initiative, the Notice on Vertical Restraints, the Technology Block Exemption Report and the Merger Process Reform. On 9 July 2001, Competition Commissioner Mario Monti announced in his address 'The Future of Competition Policy in the European Union' delivered at Merchant Taylor's Hall, London, that consumer welfare was not only an important goal of competition policy but was the goal.

Furthermore integration of economic disciplines into the practice of competition law implementation and enforcement meant a more pro-competitive efficiency enhancing approach in general.

"The US and EU examples illustrated above demonstrate the pitfalls that lay in wait for China. On the other hand, China has these examples of what not to do to guide it in its implementation of competition law."

Importance for China

So what does all this mean for China? The US and EU examples illustrated above demonstrate the pitfalls that lay in wait for China. On the other hand, China has these examples of what not to do to guide it in its implementation of competition law. China can point to these examples and learn from them in a way that the US, certainly was unable to do. The key question is whether China will embrace a vision in its competition law enforcement that highlights efficiency and consumer welfare, and thus builds the kind of competitive private sector that the US has strived to build in the last twenty or thirty years, or whether it will repeat the path followed by the US in the second period after 1911 that damaged the US economy, or the path taken by Japan and Korea where competition implementation initially turned a blind eye to domestic abuses, and favoured competitors' complaints. But in both Korea and Japan, the resultant presence of uncompetitive, inefficient companies (Chaebol in Korea, Keiretsu in Japan) meant that the economy as a whole was vulnerable, and prone to the external economic shocks that troubled Asia in the 1990s.

Any country that embraces a competition law has many goals. The primary goal is to ensure that markets operate as they should to efficiently allocate a society's resources. When markets operate in this undistorted manner, consumers are empowered (in line with the Chinese goal of people-centred growth), and more are lifted out of poverty. However, some goals, as we have seen (such as trying to create national champions, favouring one type of company or other) actually distort markets more, damaging consumers and leading to greater harm visited on people. These goals are in conflict

with the all-important goal of competition policy, and will eviscerate its usefulness. This is a lesson that has been learned, sometimes painfully, by countries with long histories in competition enforcement, and one hopes, it is a lesson that China can draw from in fashioning its implementation priorities for the 21st century.

A Closer Look at the AML

A closer look at the AML reveals that while the law contains many of the provisions one would expect to see in a modern antitrust law (such as prohibitions on price fixing, and abuse of dominant position), it also has provisions that are relatively novel in this area. For example, references to the State ensuring an orderly market system (in art 4) are not conventionally made in the notion of a market determining price and output. Article 9 sets up the Anti-Monopoly Commission, and grants it certain responsibilities, which broadly match up to the typical competition advocacy mandate of a modern competition agency, such as drafting reports on the state of competition in various markets and industry sectors. Article 11 includes provisions suggesting that industry associations should guide undertakings in various industries. To the extent that it is the beginning of a US style Noerr-Pennington doctrine, which is an exemption so that the trade associations can express the interests of their members to the legislature (collecting important price and other data in the process) it is useful, as long as it does not become abused, but the language could be tightened. The abuse of dominant position provisions also includes languages prohibiting sales at unfairly high or low prices. The concept of fairness is a difficult one in the antitrust world. How does one, for example determine if a price is unreasonably high if people are prepared to pay it? With respect to unfairly low prices, we have a reasonable proxy for that – cost. If someone is charging below cost, then they can only be doing that to knock out competitors and then charge a monopoly price in the future. But the worry there is not the low price, but the possibility of a monopoly price in the future (and if this is impossible for some other reasons, then the below cost price is simply a bad business decision). It will be interesting to see how implementing regulations clarify these provisions. There is also a ban on companies from bundling products if they have dominant position. If the general reasonableness concept is applied to bundling this would be better, since bundling is very often what consumers want, and does not always have anti-competitive consequences.

Understanding what constitutes a dominant position is very much an area where an economic view and a legalistic view clash. The US position on what constitutes market power, or a dangerous probability of acquiring it has evolved to the point where only if one firm has 60-70% of the market would there be a problem. Certainly the concepts of dominant position being presumed where the top three firms account for 75% (which could be achieved by each having 25% of the market) is even more troubling. Coupled with what appears to be a ban on certain practices that may well benefit consumers when a dominant position is found, this combination could have profoundly anti-competitive consequences from a consumer welfare viewpoint. There is a provision allowing firms to produce evidence of non-dominance which may to some degree offset these concerns, but the switching of the ➤

“Understanding what constitutes a dominant position is very much an area where an economic view and a legalistic view clash.”

burden of proof will certainly cause many firms engaged in pro-competitive consumer welfare enhancing activities to be incorrectly targeted by the AML.

Importantly for the Chinese economy, the law does include provisions in relation to administrative monopolies, such as local governments, provinces and counties that frequently bar sales from companies outside of their regions. While there are other provisions of Chinese law that make this illegal (the Unfair Competition Law, administered by the State Administration of Industry and Commerce, for example), it is very useful that these provisions are included here. Indeed, in *The Administrative Departments of the Municipality of the City X in Jilin Province to Restrict Competition by Designating Monopolistic Operations*, Case No 41, April 2004, the SAIC noted the problems associated with a lack of real enforcement tools (such as fines and compensatory damages) in the case of administrative monopolies and expressed the hope that the AML would rectify the situation.

Similarly the law deals with the state-owned sector, and it is to be hoped that implementing regulations will make clear the sanctions applicable in cases of violation. Again, while it looks like the law applies to state-owned companies; the language of art 7 c could be interpreted to mean that SOEs are subject to different standards than other private firms.

Role of SOEs and Administrative Monopolies

As the law was making its way through the various internal government agencies and finally the National People's Congress, there was significant discussion about the impact of the law on the state-controlled sector of the domestic economy. While many commentators recognized that the major causes of market distortion were in this sector, there was some reluctance on the part of the Chinese authorities to have the law deal with these areas. However, to the credit of the NPC and the Chinese government drafters, there are provisions in this area in the AML. It is to be hoped that the presence of provisions on these areas will be matched by sanctions at least as strong as those that would apply to private sector firms.

National Security

Finally there are provisions in the law that provide for a national security review for foreign acquisitions. While the Chinese authority is entitled to the right to conduct such reviews, its inclusion in the AML – which is supposed to be about consumer welfare empowerment – is unusual. The marriage of national security concepts with economic concepts has never been a happy one, and economic concepts have always come out the loser. There are also broader, vaguer provisions that relate to economic security that might allow competitors to seek to block merger and acquisition activity that is actually pro-consumer and pro-efficiency. Again, it is to be hoped that these provisions will be clarified by implementing regulation.

Conclusion

The AML is a great step forward, but its mere presence on the statute books does not automatically guarantee a competitive market in China, or even movement towards one. While it is the first small step on the 'longest journey', it is not yet clear in which direction that journey will go. The economy of China will depend on the policy choices made now. China's ability to translate its promise into the kind of Fortune 500 company depth manifested by other advanced economies in the future will depend on whether enforcement encourages efficiency and consumer welfare and discourages competitor welfare.

Shanker Singham
Squire, Sanders & Dempsey, LLP
Washington DC

Nicholas Chan
Squire, Sanders & Dempsey
Hong Kong
NChan@ssd.com

邁向發揮功能的市場經濟：中國的新反托拉斯法

中國從美國和歐洲的反競爭經驗中有所借鑒，其所制定的《反壟斷法》得以向前跨出一大步。最重要的問題仍是將會如何執行

2007 年 8 月 30 日，中國通過了反托拉斯法，並將於 2008 年 8 月 1 日施行。在過去十三年的立法進程中，從最初的一系列草案到最終成文，該法律本身（稱為《反壟斷法》）曾歷經波折。經過歷次增補，該法律幾乎包羅了在上個世紀的反托拉斯實踐中，反托拉斯法尋求達至的每一個可能目標。然而，在圍繞《反壟斷法》的各種討論中，必須注意到：在中國這樣一個至今為止仍始終依靠國家來指揮或指導市場的環境中，真正擁有鼓勵競爭或反對托拉斯的法律會產生什麼樣的影響。雖然就法律如何實施仍存在許多疑問，但我們不應無視這樣的事實：這是脫離舊計劃經濟模式的一個重大變革。在中國實行改革開放及隨後於 2001 年加入世貿組織之前，該模式曾主導一切。目前的關鍵問題在於，如何實施該項法律。具體而言，就是將採取哪些步驟，確保實施提高中國市場的競爭程度，減少市場扭曲，通過促進以人為本的發展模式，實現持續增長。這也是中國政府近期發表的聲明與政策所揭示要達到的目標。

在擬定該項法律時，中國政府借鑒了美國和歐盟競爭管理機構的若干經驗。在這些國家，競爭法律的實施方式在反托拉斯法執行的不同時期均發生過重大變化。

歷史借鑒

只有回顧這些變化，才能確定中國可以從中有哪些可借鑒的地方，以及中國競爭法律的實施應如何開展。在美國，根據《謝爾曼法》(Sherman Act) 實施反托拉斯法共分為三個時期：1890 年至 1911 年期間 (*Standard Oil of New Jersey v. United States* 221 US 1 (1911) 案件的時間)；從 *Standard Oil* 案至二十世紀七十年代的期間；二十世紀七十年代以後的期間。這三個時期表現出人們對反托拉斯法律和政策極其不同的看法。美國制定反托拉斯法律，是為了對所感受到的私營企業龐大勢力作出回應，尤其是實力雄厚的大型托拉斯，例如：財力雄厚的銀行機構所建立的鋼鐵、鐵路及資金托拉斯。然而，早在執法伊始，《謝爾曼法》的首要目標便是增進消費者福利。

《謝爾曼法》似乎對所有與價格相關的協議均設下禁制（這可能導致禁止任何協議，因為任何協議均可被視為限制貿易），而早期案例亦考慮到處理這個問題的難度。在 *United States v Trans Missouri Freight Association* (166 US 290 (1897)) 案件中，Justice Peckham 提出一項規則，稱任何橫向價格協議本身即為非法，因為它們幾乎總是會導致限制競爭。而 Justice White 則不以為然，他只希望當橫向定價者所設定的價格乃高於某種合理價格時，才給予懲罰。在 *Addyston Steel and Pipe Co v United States* (85 F 271 (6th Cir 1898)) 案件中，政府向同意固定價格和劃分區域的鑄鐵導管製造商提出起訴。在該案中，Judge Taft 區分了縱向與橫向限制，對縱向限制適用合理性原則。在 *Standard Oil* 案中，Justice White 著眼於壟斷者導致產量的減少，而奠下了以消費者福利作為競爭分析目標的基礎。

在接下來的階段（1911 年至二十世紀七十年代），美國反托拉斯法律的特點是不再以注重消費者福利為指導原則，而只是從表面上關注市場是否分散，以為存在眾多小型公司的市場本身就是好事。最高法院在 *United* ➤

States v Aluminum Company of America148 F 2d 416 (2nd Cir 1945)、*Dr Miles Medical Company v John D Park and Sons* 220 US 373 (1911)，以及在其他案件中都主張：消費者福利遠非反托拉斯法律的首要目標，而確實還有其他更為重要的目標，例如保存由小規模業者構成的市場（不論以何代價），以及社會再分配目標。確實，《羅賓遜—派特曼法》（一項禁止區別定價的法律）的制定，表明在美國法律下，競爭執法中的經濟層面是處於低水線，因為區別定價通常會增進消費者福利和提升效率。

1960 年代中期，評論人士認識到美國的反托拉斯法律走向自我摧毀的道路上。1968 年，著名經濟學家 Harold Demsetz撰文指出，聯邦貿易委員會的目標是將市場勢力抑制於萌芽狀態，這個目標本身就是極其危險的做法：

> 我們並不具備任何理論，可以讓我們從特定市場所觀察到的集中程度，來推斷價格與產量是否具競爭性。（參見 Demsetz, *Why Regulate Utilities*, 11 J Law and Econ 55, 59-60 (1968)）

Demsetz 的意思是：競爭過程本身便是商業世界中一個重要組成部分。在此之後，美國的反托拉斯法律遠比以前更關注消費者福利，當競爭對手對其實有利於消費者的行為不滿時，法院和政府機構也不再輕易提起訴訟。其中一個例子是《羅賓遜 - 派特曼法》實質上的不適用，因為經濟學家日益了解區別定價具有許多好處。

同時，歐洲法律亦在經歷類似的轉變。值得指出的是，歐洲競爭事務委員會總監只是在 2003 年才任命了一位首席經濟學家，中國可在此得到重要借鑒。早期的歐洲競爭法律受規則的制約，在解釋上過於墨守法規。通常，如果某項行為或做法可以認為符合某種特定的豁免情形，它便不會被裁定為違反競爭 ，而無須考慮它在經濟方面的實際影響。這種情形在 1995 年後開始改變。當時，接連數位競爭專員推行了一系列改革。歐洲的改革顯著地包括《現代化倡導》、《縱向限制通告》、《技術種類豁免報告》及《合併程序改革》。2001 年 7 月 9 日，競爭專員 Mario Monti 在倫敦 Merchant Taylor's Hall 發表題為「歐盟未來競爭政策」的演講。他表示，消費者福利不僅是競爭政策的重要目標，而且是唯一目標。

此外，將經濟學科融入競爭法律的實施與執行中，意味著所採取的是一個在整體上更為支持競爭的效率提升方案。

對中國的重要性

那麼，這一切對中國有何意義？上述的美國與歐洲例子，述明了埋下在中國前面道路上的一些陷阱。另一方面，這些例子令中國知道不該做什麼，以便於引導中國實施競爭法律。中國可以參考這些例子並從中學習，就這點來說，美國當然無從做到。關鍵問題在於，在實施自身的競爭法律時，中國是否會採納強調效率與消費者福利的立場，從而建立起像美國在過去二三十年要爭取營建的具有競爭活力的私營領域。還是說，中國會重覆美國在 1911 年之後的第二個時期中走過的損害美國經濟的道路，或者說，會重蹈日本或韓國的覆轍，在最初開展競爭時，無視國內出現的濫權情況，並偏袒競爭者所提出的投訴。但是，在韓國與日本，由於產生了競爭力與效率低下的企業（如韓國的財閥及日本的經連），使整體經濟變得脆弱，易受如 1990 年代般令亞洲陷入困境的外部經濟衝擊的影響。

任何採納競爭法律的國家，均有許多要達成的目標。首要目標是確保市場按其應有的方式運行，以高效配置社會資源。當市場以這種未經扭曲的方式運行時，消費者權大將增大（這符合中國以人為本的增長目標），更多人得以脫離貧困。但是正如我們看到的那樣，有些目標（例如試圖建立全國最強大企業、偏袒某類企業）其實是進一步扭曲市場，損害消費者，並導致民眾遭受更大的不利。這些目標與競爭政策的首要目標存在衝突，並會令其功用蕩然無存。這是在競爭執法方面有長久歷史的國家所得到的（有時甚至是痛苦的）教訓。人們希望， 在為 21 世紀制定實施重點時，中國能汲取這樣的教訓。

《反壟斷法》近觀

仔細研究《反壟斷法》便可發現，雖然該法律包含現代反托拉斯法律常見的許多條文（例如：禁止串通定價、濫用支配地位），但也有在這個領域中相對較新穎的條文。例如，該法例提到國家須確保有序的市場體系（第 4 條），而在市場決定價格和產量的法律概念中，通常沒有此類提述。第 9 條規定設立反壟斷委員會，並賦予其特定職責，大致相當於現代競爭促進機構通常頒佈的競爭促進指令，例如撰寫各個市場及行業領域的競爭狀況報告。第 11 條所包含的條文指出，行業協會應當指引各個行業中的競爭行為。如果這不過是開始借鑒美國式的 Noerr-Pennington 原則（後者是一項豁免原則，以便行業協會可以向立法機構表達自身成員的利益，並在此過程中搜集重要的價格及其他資料），並且不受到濫用，那麼這項規

定便具有實用意義，但其用語可以更加收窄。有關濫用支配地位的條文，也包含禁止以不公平的高價或低價進行銷售的內容。在反托拉斯界，公平的概念頗為棘手。舉例來說，假如人們願意支付有關價格，如何才能確定某一價格是否處於不合理的高水平？至於不公平的低價，我們對此有合理的標準，即成本。如果某人的價格低於成本，那麼他們這樣做的目的便是為了擠垮競爭對手，然後在將來收取壟斷價格。但令人擔憂的並非是低價，而是將來有可能出現的壟斷價格（假如基於某些其他原因而無法如此實行，那麼低於成本的價格，便只不過是一項糟糕的商業決策）。我們將會有興趣了解有關的實施條例如何澄清該等條文。具有支配地位的企業亦被禁止進行產品捆綁。假如我們能將「一般合理性」的概念應用於捆綁行為上則會更佳，因為在很多情況下，消費者往往想獲得一籃子產品，捆綁不一定會帶來妨礙競爭的後果。

什麼構成支配地位，經濟觀點與法律觀點往往為此爭持不下。何謂市場勢力，或者何謂具有獲取市場勢力的危險概率？美國在這個問題上的立場演變至今，現在僅有當一家公司擁有60-70%的市場份額時，才會出現問題。當然，支配地位概念若推定為最大的三家公司佔整體百分之七十五的份額（只要每家各佔市場的百分之二十五份額即可實現），則情況會更加令人擔憂。加上在發現公司處於支配地位後，而禁止其從事某些看來是對消費者有利的做法，這從消費者福利角度看，可能具有重大的妨礙競爭後果。《反壟斷法》中有一項條文允許企業出具非支配地位的證據，這在一定程度上可以消除上述顧慮。但若轉移舉證責任，這肯定會導致許多從事促進競爭、增進消費者福利業務的企業，錯誤地成為被《反壟斷法》針對的目標。

對中國經濟具有重要意義的是，該法律的確包含了涉及行政性壟斷（例如經常禁止外來企業進行銷售的地方政府、省和縣）的條文。雖然中國法律另有其他條文規定此類行為屬於違法（例如國家工商行政總局執行的《反不正當競爭法》），但將這些條文包含在該法律中，仍具有重大的實際意義。確實，在「吉林省X市行政部門通過指定壟斷經營限制競爭」的案件（2004年4月第41號案件）中，工商行政總局指出了在行政性壟斷情況下，由於缺乏真正的執法工具（如罰款和損害賠償）而產生的問題，並表示希望《反壟斷法》會糾正這種局面。

同樣，該法律亦涉及國有領域。我們希望，實施條例將明確違法情形中所適用的處罰手段。需要再次指出的是，雖然該法律似乎亦適用於國有企業，但第7c條的文字可以解釋為國有企業所遵循的標準不同於其他私營企業。

國有企業角色及行政性壟斷

由於該法律是通過各個政府內部機構，最終到達全國人民代表大會，該法例對國內經濟中由國家控制的領域所產生的影響，存在著熱烈的討論。雖然許多評論人士認識到市場扭曲的主要原因來自此一領域，但中國政府不太願意讓法律觸及該等範圍。然而，因著全國人大和中國政府的法律起草者所起的作出，《反壟斷法》含有涉及這方面的條文。我們希望，不僅存在涉及這些領域的條文，並且會有配套的處罰措施，其力度至少與私營企業適用的處罰相當。

國家安全

最後，該法律中有條文規定外資收購須進行國家安全審查。雖然中國政府有權進行此類審查，但將其包含在《反壟斷法》中（該法例被視為是關於對消費者福利的促進）卻是不尋常的做法。將國家安全概念與經濟概念相結合，從未產生過令人愉快的結果，而經濟概念往往總是輸家。另外，還有些更加寬泛、籠統的涉及經濟安全的條文，可允許競爭者尋求阻止事實上有利於消費者，有助於提升效率的併購活動。同樣，我們希望會有實施條例澄清上述條文。

結論

《反壟斷法》的通過是向前跨進了一大步。但僅僅制定法律文本，並不能自動保證中國有一個具競爭的市場，甚至不能保證會朝著此一方面發展。雖然這是在「漫長旅程」上邁出的一小步，但此一旅程會走向何方，目前尚不清楚。中國的經濟將取決於目前所作的政策抉擇。中國能否像其他發達經濟體所表現出來的那樣，在未來將自身的發展潛力轉變為《財富》500強企業般的力量，這將取決於法律的執行是否鼓勵效率和消費者福利，並妨礙競爭者的福利。

Shanker Singham
Squire, Sanders & Dempsey, LLP
Washington DC

Nicholas Chan
Squire, Sanders & Dempsey
Hong Kong
NChan@ssd.com