



Passion - Professionalism - Collaboration

Dear Friends,

This is a monthly newsletter focusing on legal matters in China, and related issues that shape the general business environment for foreign companies operating in China. Should you have any comments or questions, please do not hesitate to contact Ms. Anna Lukina, BD & Marketing Director at alukina@a-zlf.com.cn visit the A&Z website.

Sincerely,
The Editors



Legal Updates

SCNPC Adopts Decision on Amending Anti-Monopoly Law

On June 24, the 35th Session of the Standing Committee of the 13th National People's Congress ("NPC") has adopted the Decision on Amending Anti-Monopoly Law of the People's Republic of China (the "Decision"), which will come into effect from August 1, 2022.

The Decision, consisting of 25 articles, further improves the relevant anti-monopoly rules and systems. Regarding the monopoly agreement, firstly, the Decision perfects the rules for identifying vertical monopoly agreement, specifying that a vertical monopoly agreement by and between the business operator and its transaction counterparty will not be prohibited if the business operator can prove that it does not have the effect of excluding or limiting competition. Secondly, the Decision adds a safe harbor rule for monopoly agreement, clarifying that a vertical monopoly agreement by and between the business operator and its transaction counterparty will not be prohibited if the market share of the business operator is lower than a stipulated level and it can meet other relevant conditions. Thirdly, a new article is added, reading "a business operator must not

A&Z Past Events

June 4, Shanghai

The sixth session of the emergency webinar on "Measures to be taken in the 2022 Shanghai Epidemic" was held, and the topic of this session was "Analysis and Interpretation on Incentive Policies Benefiting Enterprises in Response to the Epidemic". Eric Zhang, Deputy Director and Senior Partner of A&Z Law Firm, interpreted the background of the incentive policies benefiting enterprises in response to the epidemic, the Action Plan

organize other business operators to enter into a monopoly agreement or provide substantive assistance to other business operators in entering into a monopoly agreement." Regarding the concentration of business operators, firstly, the Decision perfects investigation and handling procedures for the concentration of business operators that does not meet the declaration criteria. For concentration of business operators that do not meet the declaration criteria but evidence shows that it has or may have the effect of eliminating or restricting competition, the State Council Anti-monopoly Law Enforcement Agency may require the business operators to make a declaration; if business operators fail to make a declaration, an investigation shall be conducted in accordance with the law. Secondly, according to the needs of the review on the concentration of business operators, the system of "stopping the clock" for the review period has been added. Thirdly, the State Council Anti-monopoly Law Enforcement Agency shall improve the system for conducting categorized and tiered reviews of concentrations of business operators, strengthen the review of concentrations of business operators that concern the national economy, the people's livelihood, or other important areas in accordance with the law, and increase the quality and efficiency of review.

SAMR Seeks Comments on Six Relevant Supporting Measures of the Anti-monopoly Law (2022 Amendment)

On June 27, the State Administration for Market Regulation ("SAMR") has issued the Provisions on Prohibition of Monopoly Agreements (Draft for Comment), the Provisions on Prohibition of Abuse of Dominant Market Position (Draft for Comment), the Provisions on Prohibition of Abuse of Intellectual Property Rights to Exclude or Restrict Competition (Draft for Comment), the Provisions on Prohibition of Abuse of Administrative Power to Exclude or Restrict Competition (Draft for Comment), the Provisions on the Examination of Concentration of Business Operators (Draft for Comment), the Provisions of the State Council on Thresholds for Prior Notification of Concentration of Business Operators (Revised Draft for Comment), to solicit comments from the public by July 27, 2022.

Among them, the Provisions of the State Council on Thresholds for Prior Notification of Concentration of Business Operators (Revised Draft for Comment) includes two main revisions: improving the threshold of turnover; optimizing the prior notification standard. It requires the prior notification if the merger of a Business Operator with a turnover in China of more than RMB 100 billion with a Business Operator with a market value (or valuation) of more than RMB 800 million and more than one-third of the turnover from China constitutes a concentration.

to Accelerate Recovery and Revitalization of the Economy in Shanghai and the measures of benefiting enterprises in other policies, and gave professional legal opinions in combination with practice, which was highly appreciated by the participants.

June 17, Shanghai

SHTS Group, a business partner of A&Z Law Firm, held the fourth monthly online practice webinar in 2022. Sophia An, Principal Partner at A&Z Law Firm, and Nico Xin, Head of the Dispute Resolution Department at A&Z Law Firm, were invited as speakers, and gave speeches on the topics of "Dispute Resolution under Epidemic" and "Key Points of Creditor's Rights Management and Case Analysis of Creditor's Rights Recovery". Nico Xin interpreted the outline of creditor's rights recovery, the management and preservation of creditor's rights, and the realization of creditor's rights. In view of the fact that it is difficult for enterprises to realize creditor's rights recovery, based on the general debt handling problem, Nico Xin gave the method of formulating the key creditor's rights recovery scheme, especially in the cases that are difficult to recover after being

Shanghai Releases Rules on Reform of the Market Access System

On June 22, the Standing Committee of the 15th Shanghai Municipal People's Congress adopted at its 41st session the Several Provisions on Advancing the Reform of the Commitment-based Immediate Market Access System in the Shanghai Pudong New Area (the "Provision"), to be effective on August 1, 2022.

Commitment-based Immediate Market Access System refers to the reform measure of obtaining an administrative license by once informing the market subject of all the conditions and standards required to engage in the licensed business projects of a specific industry, and the market subject promises in writing that it has met the requirements and submitted the necessary materials. According to the Provision, for the industries in which the commitment-based immediate market access system has been implemented, the related administrative organs in the Pudong New Area should, considering such factors as including venues, equipment, personnel, capital and management system, standardize and combine the legal licensing requirements that should be met for carrying out business in the said industries. They should combine and streamline the materials that market entities are required to submit, prepare a list of the licensing requirements and a list of required documents, and announce them to the public. A commitment letter should be comprehensive, accurate, easy to understand, quantifiable, and operable. It should avoid vague expression, contain no miscellaneous provisions, or impose no additional licensing requirements.

STA Issues Guidelines on Tax Policy of Stabilizing Foreign Trade and Foreign Investment

On May 31, in order to help taxpayers accurately understand and timely apply various policies and measures, the State Administration of Taxation ("STA") has sorted out 44 tax supporting policies and measures on the levy and administration service in the field of foreign trade and foreign investment and issued the Guidelines on Tax Policy of Stabilizing Foreign Trade and Foreign Investment (the "Guidelines").

The Guidelines include two parts: tax policies for stabilizing foreign trade and tax policies for stabilizing foreign investment. The aspect of stabilizing foreign trade is subdivided into four parts: tax policies for export goods and services, value-added tax policies for cross-border taxable behaviors, tax policies for new foreign trade formats, and facilitation measures for export tax refund (exemption) services; The aspect of stabilizing foreign investment is subdivided into two parts: tax policies to encourage foreign investment and tax policies to support the opening of the financial market. The Guidelines also published a compilation of tax policy guidelines for stabilizing foreign

enforced by the court, and put forward the possible response measures and recovery ways in the other judicial procedure except for the enforcement. On the other hand, with the theme of solving the rapidly increasing enterprise disputes after the normalization of the COVID-19 epidemic, Sophia An explained in detail the changes in dispute resolution means, matters that enterprises should pay attention to, the macro situation and the background of increasing disputes, and the countermeasures for the normalization of COVID-19 epidemic. Both of them were highly praised by more than 500 participants. Through this joint webinar, A&Z Law Firm hopes to provide solutions and ideas for foreign-invested enterprises that encounter lawsuits due to epidemic.

...

About A&Z Law Firm

A&Z is a leading Chinese law firm, which employs over 50 experts composed of a team of professionals comprising attorneys, legal assistants, Japanese translators, client managers, and business specialists across 5 offices in 11 legal practices. Having been active in Shanghai since 2004, A&Z's presence

trade and foreign investment and a catalogue of tax policy documents for taxpayers to download and learn.

NISSTC Seeks Comments on the Personal Information Processing Management Guide for Apps of Smart Mobile Terminals

On June 13, the National Information Security Standardization Technical Committee ("NISSTC") has issued the Information Security Technology—Personal Information Processing Management Guide for Apps of Smart Mobile Terminals (Draft for Comment) (the "Draft for Comment") for public comments by August 12, 2022.

The Draft for Comment proposes the requirements for the personal information processing activities of the Apps on mobile smart terminals, and with its primary framework designed based on the user's personal information risk in each node of the mobile smart terminal's life cycle, it intends to provide management measures for mobile terminals in each life cycle of the App. This standard applies to the scenario in which the management, prompting, control, and other functions are provided when the mobile terminal operating system collects and uses personal information in the App. For example, it provides a stronger reminder mechanism for sensitive personal information or the sensitive capabilities of mobile terminals and provides users with application software call behavior records.

CAC Revises Administrative Provisions on Mobile Internet Applications Information Services

On June 14, The Cyberspace Administration of China ("CAC") has issued the Administrative Provisions on Mobile Internet Applications Information Services (Revised in 2022) (the "Provisions"), with effect from August 1, 2022.

According to the Provisions, the application providers and the application distribution platforms shall abide by laws and regulations, promote social core values, adhere to the correct political, public opinions and value orientation, consciously comply with the good public order and customs, actively perform social responsibilities, and maintain clean cyberspace. The Provisions require the application providers and the application distribution platforms to fulfill their primary responsibility for information content management, establish sound systems for information content security management, information content ecological governance, data security, personal information protection, and protection of minors, and ensure network security and maintain a sound internet ecology. The Provisions also emphasize that application providers shall not induce users to download any application by conducting false publicity, forcing bundled downloads, automatically or manually creating fake online

was expanded through the establishment of offices in Beijing, Dalian, Wuhan, and Tokyo. A&Z focuses on advising multi-national groups, major corporations, banks, and SMEs on various legal issues relevant to their business endeavors.

A&Z's practices include Foreign Investment, Overseas Investment, Competition and Antitrust, Intellectual Property, M&A and Corporate Restructuring, Labour and Social Security, Dispute Resolution, Compliance and CSR, Finance and Capital Markets, Customs Logistics and Maritime Commerce, and Environment, Health and Safety (EHS).

views or controlling comments, or utilizing illegal and harmful information.

CAS Issues Guidelines on Data Asset Appraisal (Draft for Comment).

On June 8, China Appraisal Society ("CAS") issued Guidelines on Data Asset Appraisal (Draft for Comment) (the "Draft for Comment") for public comments by June 16, 2022.

According to the Draft for Comment, data assets refer to data resources legally owned or controlled by a specific subject, which can be used for monetary measurement and can bring direct or indirect economic benefits. When performing data asset evaluation, it usually needs to pay attention to the quality factors, application factors, cost factors and legal factors that affect the value of data assets. Quality factors include accuracy, consistency, completeness, standardization, timeliness, accessibility, etc. Application factors include application scope, application scenario, business model, market prospect, financial forecast, supply-demand relationship, application risk, etc. Cost factors refer to the total cost of data assets from the generation to the evaluation base date, including direct costs and indirect costs. The direct costs mainly include upfront costs, construction costs, operation and maintenance costs, etc. Legal factors mainly include the impact of new releases or changes in the laws and regulations, policy documents and industry supervision on the value of data assets.

Industry News

China Focus: Summer harvest progresses in full swing to ensure food security

Xinhua, June 1

China's State Grid to invest over 500 bln yuan in power grid projects in 2022

Xinhua, June 4

We need to talk about Gucci: Kering sets plan to boost brand in China

Reuters, June 7

Chinese mobile game developers gain big share in global revenue

China Daily, June 13

High-tech boosts biometric identification

Chinese splash out on tech goods, camping gear in shopping fest

Reuters, June 20

Tech firms eye more new blood to tap digitalization

China Daily, June 21

BMW starts production at new \$2.2 bln China plant to ramp up EV output

Reuters, June 23

Shanghai's fashion stores struggle to clear lockdown stock hangover

Reuters, June 24

Geely issues coupons in e-CNY for auto purchases

China Daily, June 28

The information contained in this Newsletter is for reference on matters of interest only, and is not intended to be comprehensive. Although we try to ensure accuracy, please note that the application and impact of laws can vary based on contextual and circumstantial variables.

Before taking any action, please ensure that you obtain professional advice specific to your circumstances.

There are numerous ways for you to keep up-to-date with legal updates, A&Z's practice, and valuable events.

Visit our website: www.A-ZLF.com.cn

由未来链接提供技术支持

一体化云平台助力企业或社群组织与客户云端互联