



Antitrust and Competition

The Preeminent China-based International Law Firm

Founded in 1993 and one of the most prestigious law firms in the region, Fangda Partners has over 700 lawyers across our network of offices in Beijing, Shanghai, Hong Kong, Shenzhen and Guangzhou. We offer China and Hong Kong level services to a wide variety of major clients – including large MNCs, global financial institutions, leading Chinese enterprises and fast-growing Hi-tech companies – on an extensive range of commercial matters.

We are the firm of choice for the most challenging transactions and legal issues in many practice areas. Since we were founded, we have acted on some of the largest and most complex corporate and finance transactions in China, the region and globally. We have also assisted our clients with many renowned and complex cases and arbitrations, as well as compliance and government investigations.

Our service to clients is premised on the dual foundations of strong local law capabilities and a global business outlook. Our lawyers are qualified in many jurisdictions, including the People's Republic of China, Hong Kong SAR, England and Wales, the United States, Singapore and Australia.

Our understanding of the laws and processes in major jurisdictions around the world enables us to advise our clients effectively on the largest and most complicated cross-border matters in China and elsewhere. Our strengths have been widely recognized by our clients and peers. Chambers has commented on our cross-border capabilities in the following terms – “outstanding quality of its lawyers”, “high level of service that is comparable to international firms”, and “strong global outlook”.



Unrivalled antitrust expertise and experience

Businesses expanding cross-border through mergers or acquisitions face myriad problems: trade wars; industrial and security policy considerations; state intervention; and administrative delays. At best, deals often take longer to close; at worst, deals can collapse.

We help clients by skilfully navigating and managing the interconnected antitrust, economic and political spheres to help ensure the smooth execution of cross-border M&A transactions.

Clients also come to us for trusted advice on complex and risky matters. We successfully represent some of the largest corporations and financial institutions on the most contentious and high-profile matters. Our successes in helping our clients accomplish these goals is why our team is regarded as one of China's standout competition practices.

Awards and recognition



Competition/Antitrust (PRC Firms) - Band 1
Chambers Greater China Region, 2022



GCR100 Chinese Law Firm - Elite
Global Competition Review (GCR) 100, China Jurisdiction, 2018-2022



Competition/Antitrust (PRC Firms) - Band 1
Chambers Asia-Pacific 2018-2021



Merger Control Matter of the Year – Asia-Pacific, Middle East and Africa: ZF Friedrichshafen/WABCO
Global Competition Review 2021



Antitrust and Competition: PRC firms - Tier 1
The Legal 500 Asia Pacific 2017-2022



Firm of the Year - China
China Law and Practice 2018-2020



Competition/Antitrust - Outstanding
Asialaw Profiles 2018-2022



Competition Firm of the Year - China
China Law and Practice 2017-2020



Competition/Antitrust Firm of the Year
Legal professional awards, regional awards, Asialaw Profiles 2021



Competition/Antitrust Firm of the Year
China Business Law Journal 2019-2021



Our group leader, Michael Han, is recognized by *Chambers Asia-Pacific* as Band 1 for Competition & Antitrust and *Who's Who Legal's WWL: Thought Leaders – Competition*

Local depth with a global view

China's antitrust regime has become one of the world's most important enforcement regimes alongside Europe and the United States. Global deals with a China dimension require local expertise with an international perspective.

Our competition practice is one of the largest in China. Our team consists of more than 20 antitrust lawyers who work across China, including Beijing, Shanghai and Hong Kong. Before joining Fangda, members of our team practiced competition law in many jurisdictions, including in Belgium, the United Kingdom, the United States and Australia. In addition, we have close working relationships with leading competition practices of other firms across the globe.

Multidisciplinary

We understand that antitrust scrutiny often extends to a wide range of areas. Our multidisciplinary practice can help address challenges wherever they might arise, including in intellectual property, the digital economy, privacy and data protection, and consumer protection.

Regulatory insight

China's antitrust regime is active but many areas of its practices and procedures remain opaque and unpredictable. Our team is best placed to help businesses understand and navigate China's antitrust and competition regime. We have deep-seated relationships with China's regulators. We have worked with China's competition authorities on many complex matters, allowing us to provide clients with exceptional insight.

We are familiar with the mindset, working styles and priorities of the authorities as our team members have gained first-hand experience working within the regulators or as non-governmental advisors appointed by regulators to the International Competition Network.

Our leading antitrust practitioners have helped shape China and Hong Kong's antitrust laws and regulations through their work and their ongoing interactions with legislators and regulators. We are regularly invited by legislators and regulators to comment on the very initial draft regulations and guidelines before they are released for public consultation.



Merger control

We have represented clients on some of the largest, most complex and toughest deals and investigations in China's antitrust enforcement.

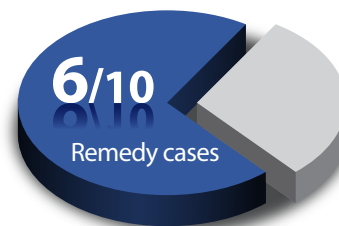
Our team has a market-leading track record in successfully defending clients in merger control reviews.

As China's merger control reviews can be lengthy and unpredictable, we guide clients to the most optimal outcomes, ensuring their transactions are cleared. This guidance includes advising on the likelihood of intervention by China's competition authority, assessing industrial and political sensitivities, and aligning global deal strategies with China's merger review processes to ensure a consistent approach that is timely and efficient.

Where antitrust remedies are required, we carefully design and negotiate with regulators to reach innovative solutions to address any competition concerns without losing sight of the deal's commercial objectives and incentives in China and globally.

Our track record of success

We have represented clients in more than half of all remedy decisions by China's competition authority in 2021 and 2022.



Our recent successes include acting for:

- **Illinois Tool Works** on its US\$1.7 billion acquisition of **MTS Systems Corporation's** test and simulation business
- **SK hynix** on its US\$9 billion acquisition of the NAND memory and storage business of **Intel**
- **Korea Shipbuilding & Offshore Engineering** on its US\$1.8 billion proposed acquisition of Daewoo Shipbuilding and Marine Engineering
- **Varian Medical Systems, Inc.** on its US\$16.7 billion acquisition by Siemens Heathineers AG
- **TCL Technology** on its acquisition of Samsung's display business in China
- **Marvell Technology Group Ltd.** on its acquisition of shares of Inphi Corporation
- **WABCO Holding** on its US\$7.2 billion acquisition by ZF Friedrichshafen AG
- Both parties on **Cargotec Oyj's** merger with **Konecranes Plc**
- **Maxim Integrated** on its acquisition by ADI
- **Infineon** on its US\$10 billion acquisition of Cypress Semiconductor Corporation
- **Danaher** on its US\$21 billion acquisition of GE Healthcare Life Sciences' Biopharma Business
- **Novelis** on its US\$2.6 billion acquisition of Aleris
- Both parties on **Disney's** US\$71 billion acquisition of **21st Century Fox**
- **Boeing** on its US\$4.2 billion acquisition of Embraer
- **Cargotec** on its €87 million acquisition of the marine and offshore business
- **Linde** on its €66 billion merger with Praxair
- **Rockwell Collins** on its US\$30 billion acquisition of United Technology
- **Becton, Dickinson and Company** on its US\$24 billion merger with C.R. Bard
- Both parties on **Thales's** €4.8 billion acquisition of **Gemalto**
- **Broadcom** in a proposed hostile takeover of Qualcomm, valued at US\$117 billion
- **DuPont** on its US\$120 billion merger with Dow Chemical Company, recognized by SAMR as one of the "Top 10 Most Influential Cases During 10 Years of China Antitrust Enforcement"
- **AB InBev** on its US\$104 billion acquisition of SABMiller



The deal: We represented Illinois Tool Works on the China merger control proceedings of its US\$1.7 billion acquisition of MTS Systems Corporation's test and simulation business.



The challenges: The parties competed in the supply of electro-hydraulic servo material testing equipment. As a result of their leading positions and closeness of competition, China's competition authority considered the merged entity to give rise to "dominance" and therefore eliminate competition and weaken the bargaining power of customers.

The outcome: Despite the significant challenges of the highly concentrated markets, we successfully convinced the authority to only impose behavioural remedies instead of a structural divestment to alleviate its concerns.



The deal: We represented SK hynix on the Chinese merger filing of its US\$9 billion acquisition of Intel's NAND and SSD storage business. This was a high-profile global transaction in the semiconductor sector that required clearance in a number of jurisdictions, including China, Europe, and the United States.



The challenges: The semiconductor space has been an antitrust enforcement priority for a number of years. Many sensitivities need to be addressed, including concerns by a range of stakeholders to maintain the competitiveness of China's semiconductor production and supply. The market in this case was characterized as highly concentrated with significant entry barriers. China's competition authority challenged the transaction in light of the leading market position of the parties and their ability to coordinate prices.

The outcome: We developed a targeted strategy to preempt and alleviate concerns by the authority and a range of stakeholders. We developed a remedy package involving multiple rounds of negotiations that ultimately led to clearance, which included a novel commitment of helping facilitate entry of Chinese competitors.



The deal: We represented TCL Technology in its strategic acquisition of the Samsung's display business in China



The challenges: The transaction represents the largest strategic acquisition in the display industry in 2020. Fangda led the multi-jurisdictional merger control filings. We assisted the parties to assess the notifiability of the transaction across more than 20 key jurisdictions and coordinated all necessary antitrust filing work assessment with filings with the relevant competition authorities in China, Europe and Southeast Asia.

The outcome: As global counsel, we assisted the parties to obtain all necessary merger clearances within a short period of time.



The deal: We represented Wabco Holdings on its US\$7 billion sale to ZF Friedrichshafen AG in China.

The challenges: The transaction represented a merger of two global suppliers of advanced automotive technology products. A total of 13 product markets were explored. The competition authority raised competition issues in the markets for medium and heavy commercial vehicles and was particularly concerned about Wabco's competitive edge in the supply of controllers, which represent an important input to downstream customers.

The outcome: The transaction was cleared within nine months from submission – a very fast timeframe for a complex transaction raising concerns in China. To achieve that timeframe, our team developed targeted remedies requiring the parties to pledge to continue to supply key products to the Chinese market on fair, reasonable and non-discriminatory terms.



The deal: We represented Infineon Technologies AG on its €9 billion acquisition of Cypress Semiconductor Corporation.

The challenges: The transaction raised strong objections from customers and competitors about conglomerate effects, including potential practices of bundling and weakening interoperability in relation to the supply of automotive microcontrollers.

The outcome: Clearance was obtained within the Phase III of China's statutory review timeframe – a rare feat for complex deals like this. A number of remedies were offered to achieve clearance, including interoperability commitments requiring compliance with accepted industry standards for interfaces.



The deal: We represented DanaHER Corporation on its US\$21.4 billion acquisition of GE Life Sciences biopharma business.

The challenges: The transaction involved 26 overlapping product markets and had a challenging closing timeline. China's competition authority raised extensive questions on the products of both parties and raised additional China-specific concerns during the review.

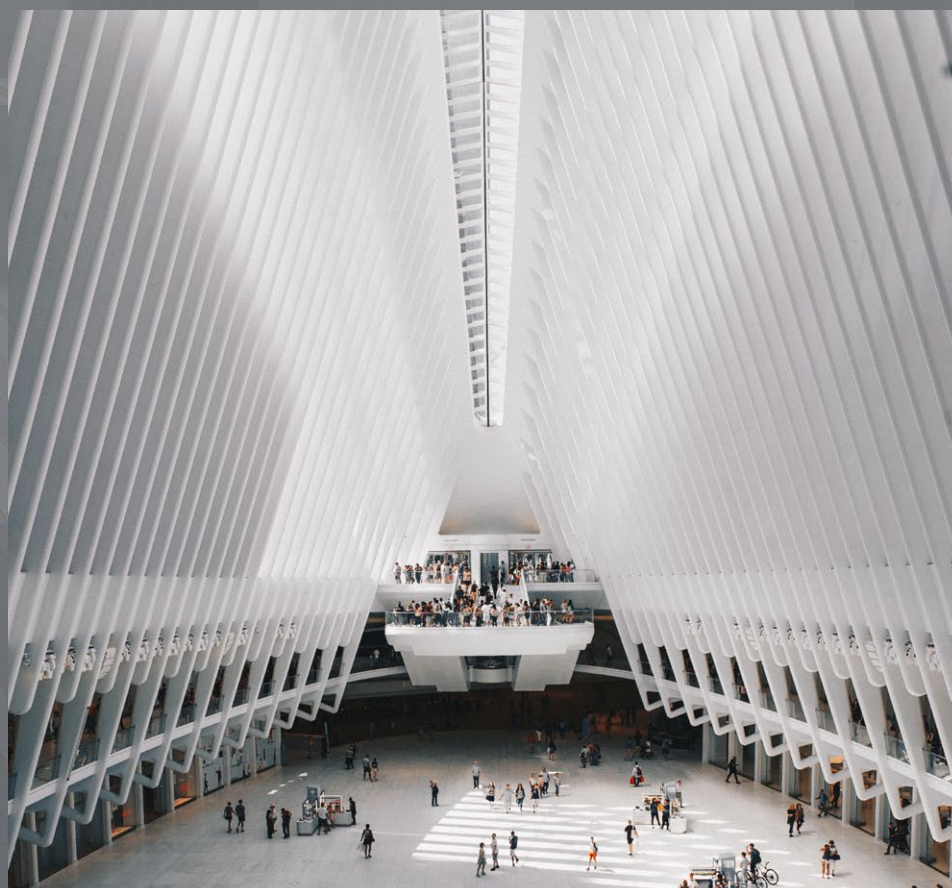
The outcome: We obtained conditional clearance after successfully proposing a structural divestment, which included obtaining buyer approval ahead of the closing timeline of the divestiture transaction required in the United States.

Investigations and enforcement

Antitrust and cartel fines have increased. Enforcement actions have continued to multiply in the last decade. Our clients come to us to defend their interests in the face of large-scale and complex investigations and court actions.

We support clients in assessing investigation risks and determine strategies to deal with those risks, including preparing defenses and responses in many large-scale antitrust investigations. We advise on and manage leniency applications, settlement strategies, dawn raid responses, and large-scale document reviews and requests.

We have acted in a number of large-scale litigations. Many cases involve multiple jurisdictions that require a global vision and close collaboration with overseas lawyers, but also require sound economic expertise and first-class dispute resolution skills. In addition to working closely with established economic consultancies, we often act in conjunction with our dispute resolution team, which includes hundreds of cross-disciplinary specialists.



Our recent successful investigations include acting for:

- **Alibaba** in an antitrust investigation concerning its abuse of dominance
- **Alibaba Group, Ant Group, 58 Group, and private equity funds** in responding to investigations of failures to notify previous transactions under the merger control regime
- **Eastman Chemical Company** in an investigation into abuse of dominance and resale price maintenance
- **Singamas** in an investigation into a cartel of yard fees
- **Three state-owned port groups (Tianjin Port, Dalian Port and Yantian Port)** in abuse of dominance investigations
- **Chrysler and Daimler** in a resale price maintenance investigation
- **Chang'an Ford** in an administrative investigation into resale price maintenance
- **Medtronic** in a resale price maintenance investigation
- **Höegh Autoliners** against price fixing claims in the roll-on, roll-off cargo industry
- **GN Audio** (a global producer of headset and conference equipment) in handling a local PRC investigation into resale price maintenance and helped the client achieve a significantly reduced fine
- **A leading online food delivery platform** on an investigation by the Hong Kong Competition Commission's regarding exclusivity and price parity
- **Two of the five world's leading automobile manufacturers** in responding to informal investigations into vertical restraints
- **An international medical devices company** in an investigation by the Beijing Administration for Market Regulation (AMR)
- **A multinational and well-known automobile company** in responding to an investigation initiated by the Jiangsu AMR
- **A multinational cosmetics company** in responding to an investigation initiated by the Shanghai AMR
- **A global biotech company** in an administrative investigation into excessive pricing behaviors
- **An E-hailing platform company** in an administrative investigation into abuse of dominance
- **A global record label** in a gun-jumping investigation against a transaction with another Internet music company
- **A world-leading pharmaceutical enterprise** in responding to an investigation initiated by the Zhejiang AMR
- **An international automotive manufacturer** in an investigation into suspected collusion regarding emission control systems
- **A US high-tech company** in an abuse of dominance investigation
- **A global entertainment company** in an investigation into exclusive licensing practices

Our recent litigation cases include acting for:

- **Ant Group** in two abuse of dominance lawsuits raised by Chinese consumers
- **Bytedance** in an abuse of dominance suit against Tencent
- **Viscas** in a subsequent damages lawsuit brought by a Chinese state-owned enterprise against it for cartel conduct
- **VM Ware**, an American technology firm, in a lawsuit brought by a distributor alleging abuse of dominant position
- **InterDigital** in a series of antitrust actions concerning the licensing practices of its patent portfolio, which contained patents considered essential for certain telecommunications industry standards, and finally took the case to the Supreme People's Court
- **A well-known domestic mobile phone manufacturer** in an antitrust lawsuit against an international patent licensing company
- **A leading Chinese computer manufacturer** in an antitrust dispute over abuse of intellectual property rights
- **A leading technology company** in an antitrust case concerning MFi certification initiated by a Chinese digital accessories company before the Beijing IP Court
- **An international medical devices company** in an antitrust case related to resale price maintenance
- **A Taiwanese company** in defending against a follow-on damages action initiated by Chinese customers after a cartel investigation
- **A multinational company** in an IP/antitrust litigation that was part of a global antitrust litigation. We helped the client reach a favorable settlement
- **A multinational company** in defending against ongoing antitrust claims filed by Chinese companies
- **A global communications technology company** in a dispute over alleged abuse of market dominance relating to restrictive provisions in intellectual property license agreements
- **An electrical equipment manufacturing company** in a dispute with a global energy company over alleged abuse of market dominance concerning restrictive provisions in supply agreements
- **A multinational chemicals company** raising an antitrust claim for abuse of market dominance against a US-based petrochemical company concerning restrictive provisions in supply agreements





The case: We represented **Alibaba Group** in an antitrust investigation related to abuse of dominance, the first such abuse of dominance investigation against a digital platform since the publication of the Anti-Monopoly Guidelines for Platform Economy in 2021.

The challenges: SAMR alleged that the company engaged in exclusive dealing conduct by prohibiting merchants from using and selling on rival platforms.

The outcome: Fangda defended the company in responding to the investigation, formulating key strategies of responding to and addressing the concerns of SAMR. This investigation is likely to have a profound impact on future investigations in the digital sector. We assisted the client in completing the self-investigation report under high time pressure. Despite the fact that SAMR imposed in this case the highest amount of penalty in the history, we successfully helped the client achieve a far lower penalty than it otherwise faced.



The case: We defended **Höegh Autoliners** accused of conspiring to fix prices and divide market for “roll-on, roll-off” cargo. The cartel investigation was initiated by one of the former antitrust agencies, China’s National Development and Reform Commission (NDRC).

The challenges: China was one of more than 10 jurisdictions that accused the company and nearly 10 competitors of cartel conduct. We had to quickly prepare and pursue a defense strategy under significant time constraints that was coordinated with the company’s global defence strategy with overseas law firms.

The outcome: Despite NDRC imposing heavy fines on eight other competitors involved in the investigation, we were able to facilitate a constructive dialogue with the NDRC that ultimately saw the case being dropped against our client. This was the first dismissal in China of a cartel investigation against a multinational company.



The case: We defended **Eastman Chemical Company** against allegations of abuse of dominance regarding its exclusivity arrangements.

The challenges: The case opened with a dawn raid and ultimately led to the review of contractual measures including most-favored nation clauses, minimum purchase requirements and loyalty rebate schemes.

The outcome: Our team helped our client to prepare a large amount of RFI responses from the beginning of the dawn raid to the end of the investigation, and worked closely with renowned economists to prepare a robust defense that ultimately resulted in heavily reduced fines.



The case: We represented **Chang’an Ford** in a resale price maintenance antitrust investigation by China’s competition authority.

The challenges: The investigation involved multiple rounds of document production. During the case the antitrust functions of the three antitrust agencies were merged. The long-term and wide-scope investigation brought about challenges in terms of intensive document preparation and formulating strategies on both substantive and procedure issues in response to the change of the circumstances.

The outcome: We successfully assisted the company achieves significantly reduced administrative penalties.

Compliance and advisory

Our goal is to always enable commercial outcomes within appropriate risk tolerances. We provide strategic antitrust advice on pricing, distribution, licensing and supply agreements between competitors, suppliers and distributors. We also conduct full-scale competition law compliance audits to identify issues and prepare suitable strategies to mitigate risks without undermining the commercial objectives of the business.

We believe in building a culture of compliance to mitigate antitrust risk. We help our clients achieve and maintain robust and effective compliance policies and cultures. We design and implement comprehensive internal compliance programs that are tailored to their business, consistent with international standards, and aligned with the expectations of China's regulators. This includes customized training programs for senior management and key personnel.

Our recent antitrust compliance advisory work includes advising:

- **A number of medical companies** in identifying and assessing antitrust risks and establishing compliance programs
- **A number of multinational automobile companies** in adjusting their sales models and providing advice on their supply and distribution arrangements
- **A number of leading digital companies** on antitrust and competition compliance issues concerning exclusivity and licensing arrangements (including in the context of abuse of dominance)
- **A number of well-known FMCG companies** in conducting antitrust compliance assessment and developing an antitrust compliance regime
- **A number of global and Chinese airline companies** in assessing the risk of their business cooperation with other airline companies
- **A number of multinational companies** in analyzing non-compete arrangements with joint ventures and joint venture partners
- **Multiple Fortune 500 clients** in conducting antitrust audits, making risk assessment and proposing mitigation measures

Contacts



Michael Han

Partner

+86 21 6263 5859 (Shanghai)

+86 10 5769 5600 (Beijing)

michael.han@fangdalaw.com



Professor Andrew Skudder

Senior Consultant

+852 3976 8825

andrew.skudder@fangdalaw.com



Caroline Huang

Partner

+86 10 5769 5624

caroline.huang@fangdalaw.com



Jin Wang

Partner

+852 3976 8882

jin.wang@fangdalaw.com



Beijing

27/F, North Tower
Beijing Kerry Centre
1 Guanghua Road
Chaoyang District
Beijing 100020, China

Tel: +86 10 5769 5600
Fax: +86 10 5769 5788

Guangzhou

66/F, Guangzhou CTF
Finance Centre
6 Zhujiang East Road
Zhujiang New Town
Guangzhou 510623, China

Tel: +86 20 3225 3888
Fax: +86 20 3225 3899

Hong Kong

26/F, One Exchange Square
8 Connaught Place, Central
Hong Kong

Tel: +852 3976 8888
Fax: +852 2110 4285

Shanghai

24/F, HKRI Centre Two,
HKRI Taikoo Hui
288 Shi Men Yi Road
Shanghai 200041, China

Tel: +86 21 2208 1166
Fax: +86 21 5298 5599

Shenzhen

9/F, Tower One, Kerry Plaza
1 Zhong Xin Si Road
Futian District
Shenzhen 518048, China

Tel: +86 755 8159 3999
Fax: +86 755 8159 3900