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西盟斯律师事务所 科技、传媒和电信法中国研讨会

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What a Chinese tech company needs to know about EU Competition Law

中国科技公司需要了解的欧盟竞争法要点

Peter Broadhurst
Partner 合伙人
London 伦敦

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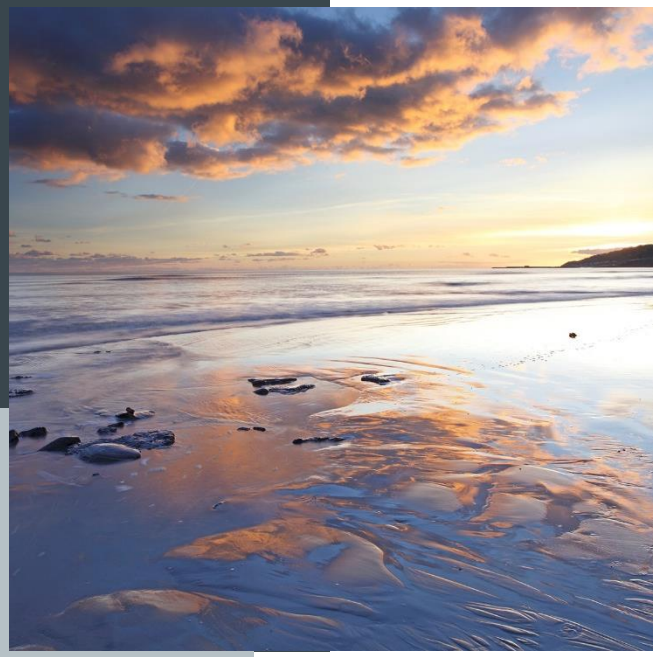
Introduction
欧盟竞争法简介



EU Competition law (1/2)
欧盟竞争法（1/2）

- The EU has strict rules protecting competition between companies
  欧盟具有严格的法律保护公司之间的竞争

- Competition law aims to maximise consumer welfare by requiring companies to compete robustly with one another in the manufacture and sale of products
  竞争法旨在要求公司在制造和销售产品环节彼此进行强有力竞争，从而最大限度地提高消费者福利

- On the basis of these rules, certain practices are prohibited:
  法律禁止以下行为：

Anti-competitive agreements and concerted practices
限制竞争协议及协调性行为
- price fixing, market sharing, customer allocation, production limitation
  固定价格、瓜分市场、划分客户、限制产量

Abuse of a dominant position on the market
滥用市场支配地位

Granting of State subsidies that put certain undertakings at an advantage
给与某些企业国家补贴使得他们处于优势地位

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EU Competition law (2/2)
欧盟竞争法（2/2）

- In addition, there are strict rules on merger control
  关于并购控制的严格规定
  - companies cannot buy themselves in a position where they are too strong
    一家实力强大的公司不得收购同样实力强大的同类公司
  - for example, Coca-Cola could not buy Pepsi
    例如，可口可乐不得收购百事
- There is both
  需要同时遵守
  - EU competition law and merger control
    欧盟竞争法和并购控制
  - National member state competition law and merger control regimes
    欧盟成员国本国竞争法和并购控制制度

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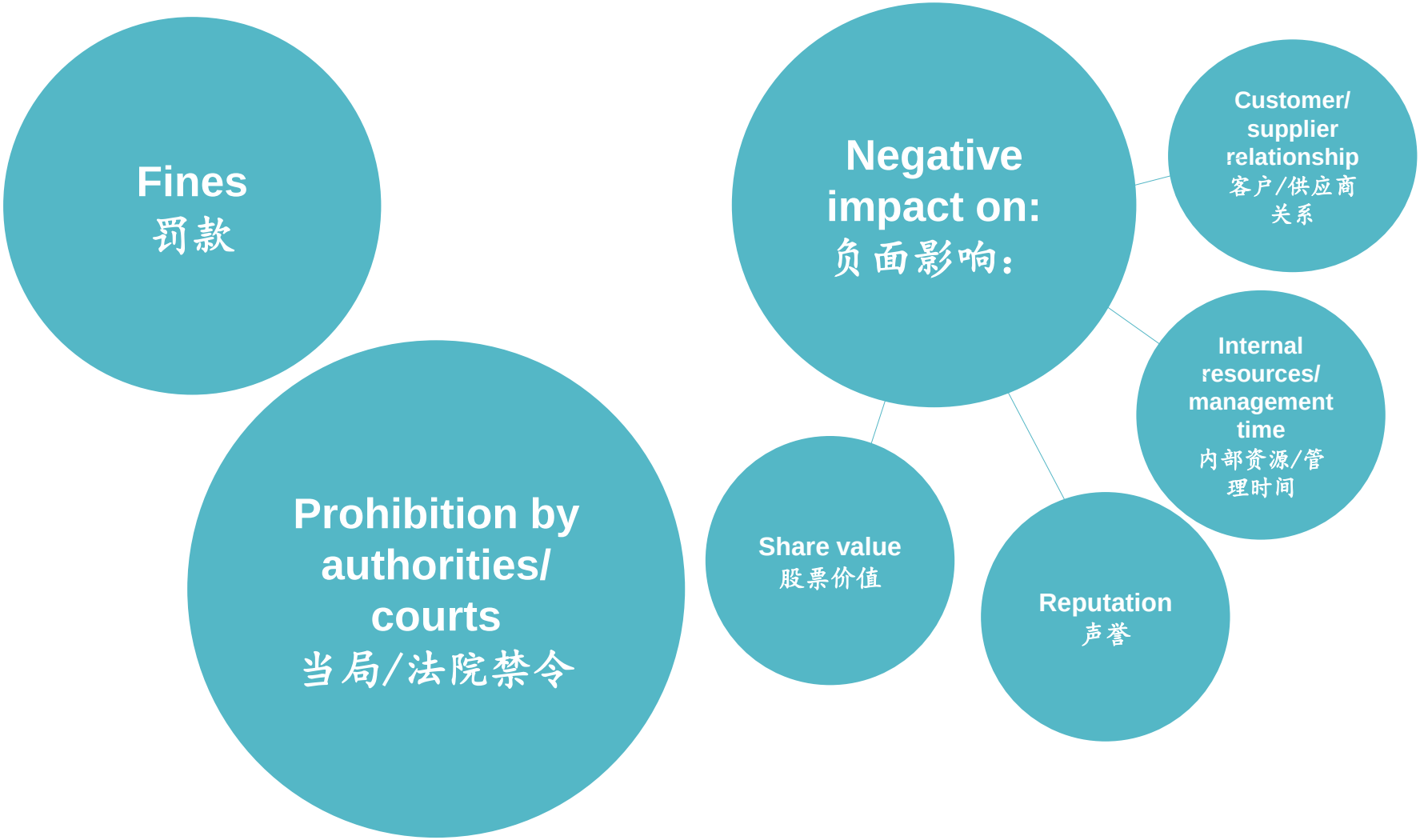
Why comply with competition law?
为什么要遵守竞争法？



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Why comply with competition law?
为什么要遵守竞争法？

- In some jurisdictions sanctions for individuals
  一些司法管辖区对个人的处罚
  - fines/criminal sanctions/director disqualification
    罚款/刑事处罚/取消董事资格
- Excluded from bidding in public tenders?
  不被允许在公开招标中投标？
- Damages claims from direct/indirect customers
  遭到直接/间接客户的损害索赔
- Fines for gun-jumping in merger control
  在并购控制中“抢跑”（提前合并）会被处以罚款

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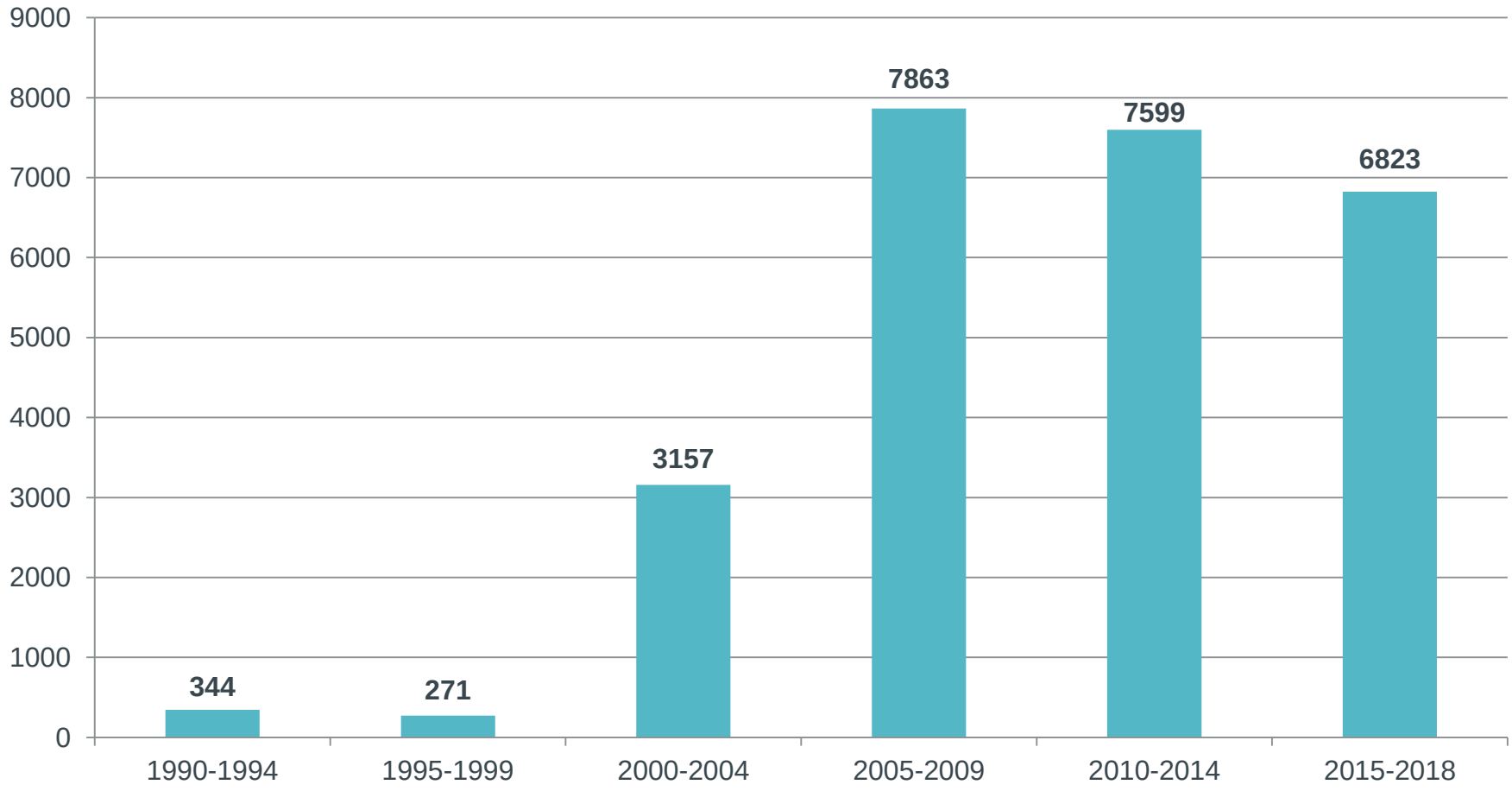
Fines imposed by European Commission (cartels only)
欧盟委员会处以的罚款（仅限卡特尔/垄断协议）

* in EUR million (Court adjusted)

*单位：百万欧元（法院调整后）



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Fine size varies (1/2)
罚款金额不等（1/2）

- Average fine is around € 200M – **BUT**
  平均罚款金额约为 2 亿欧元，**但**

- Highest EU fines to date 迄今为止最高金额的罚款为：
  - per cartel 按卡特尔排序：

Truck manufacturers 卡车制造商 (2016/2017)	TV and computer monitor tubes 电视和计算机显示器映像管 (2012)	Euro interest rates derivatives 欧元利率衍生品 (2013/16)
€3.807B 38.07亿欧元	€1.409B 14.09 亿欧元	€1.310B 13.10 亿欧元

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Fine size varies (2/2)
罚款金额不等（2/2）

– per undertaking 按企业排序：

Google

2017 €1.310B 13.10 亿欧元

2018 € 4.34B 43.4 亿欧元

Microsoft

2008 & 2013 € 1.460B 14.60 亿欧元

intel

2009 € 1,060B 10.60 亿欧元

- Significant increase in damages claims by customers
  客户的损害索赔大幅增加
  – where a customer suffered a loss as a result of a breach of competition law – e.g. two suppliers fixing prices – a customer can sue for that loss
  如果客户因其他人违反竞争法（例如两家供应商限定价格）而遭受了损失，他可以就该损失提起诉讼

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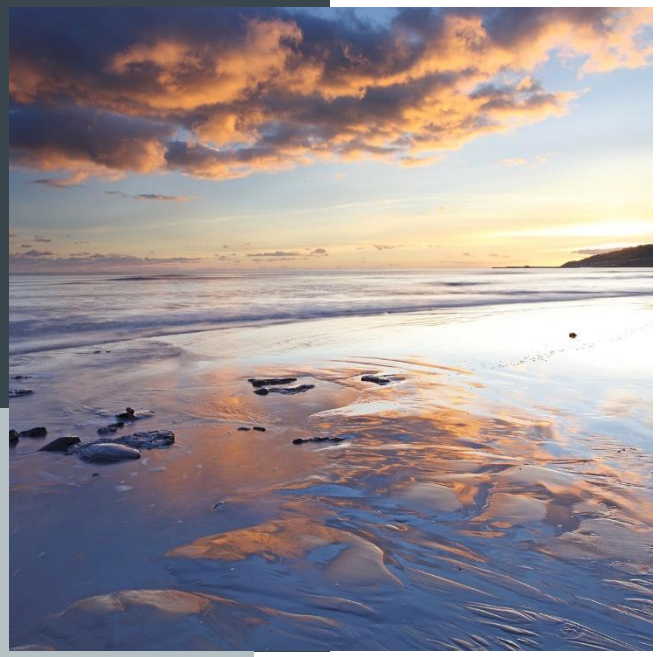
What types of behaviour are covered by competition law?
欧盟竞争法涵盖哪些类型的行为？



Prohibition on anti-competitive agreements
禁止限制竞争协议

- An “agreement” requires that there are at least two independent entities
  既然是“协议”，需要有至少两个独立实体
  - there can be more than two entities to an agreement
    也可以是两个以上的实体
- Not just formal/written agreements
  不只有正式/书面协议
  - understandings between companies can be inferred/presumed
    可以推断/推测出两家公司之间的共识

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"Horizontal" agreements between competitors Types of Infringement (1/3)
竞争者之间的横向协议 - 侵权类型 （1/3）

- Price fixing 固定价格
  - 'price' can include commissions, fees, discounts or rebates and components of price
    "价格"可包括佣金、费用、折扣或回扣和价格构成
- Market sharing 瓜分市场
  - agreeing not to compete for a competitor's customers – "non-competes"
    约定不争夺竞争对手的客户 -"不竞争"
  - agreeing not to offer certain products/services or not to compete in certain territories
    约定不提供特定产品/服务或不在某些地区相互竞争
- Limiting supply 限制供应
  - agreeing to withhold supply so as to maintain high prices
    约定限制供应量以维持高价

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"Horizontal" agreements between competitors Types of Infringement (2/3)
竞争者之间的横向协议 - 侵权类型（2/3）

- Bid rigging 操纵投标
  - agreeing, discussing or exchanging information on who should bid or win work or agreeing prices to be bid or submitting "cover" prices
    约定、讨论或交流谁应该投标或中标，或约定投标价格或提交"掩护式"价格
  - safest to avoid any contact with a competitor in the context of a bid
    最安全的做法是避免在竞标过程中接触其他竞争者
    - unless the customer knows about the cooperation/contact
      除非客户知晓该合作/接触
    - be careful what the non-disclosure agreement says about discussing the bid with third parties
      注意保密协议中有关与第三方讨论出价的条款

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“Horizontal” agreements between competitors Types of Infringement (3/3)
竞争者之间的横向协议 – 侵权类型（3/3）

- Collective refusal to supply to a customer or acquire from a supplier
  共同拒绝向客户供货或从供应商采购
- Information exchange信息交换
  - not per se forbidden – depends on the facts/circumstances
    本身不被禁止 – 取决于事实/具体情况
  - does it reduce uncertainty as to future conduct?
    它是否会减少未来行为的不确定性？

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"Vertical" agreements between non-competitors Types of Infringement (1/3)
非竞争者之间的纵向协议 - 侵权类型（1/3）

- Vertical agreements 纵向协议
  - agreements between non-competitors/entities operating at different levels of the production/supply chain
    在生产/供应链的不同阶段经营的非竞争者之间的协议
  - these tend to raise fewer competition law concerns than horizontal agreements between competitors
    与竞争者之间的横向协议相比，此类协议产生竞争法问题的可能性相对小

- Most vertical restrictions are justifiable, provided that the parties to the agreement do not have "market power"
  大多数纵向限制是合理的，只要协议各方没有"市场势力"
  - market power means a strong position on a market
    市场势力是指在市场中具有强势地位
  - but it does not need to be a position of dominance
    但不需要是支配地位

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“Vertical” agreements between non-competitors Types of Infringement (2/3)
非竞争者之间的纵向协议 – 侵权类型（2/3）

- There is an assumption that there is no market power below a market share of 30%
  市场份额在 30% 以下的即假定其没有市场势力

- Types of restrictions that are justifiable where there is no market power
  在没有市场势力情况下的合理限制类型
  - Exclusivity 独占权
    - a distributor agrees to work only with one supplier
      经销商同意仅与一家供应商合作
    - a supplier agrees to distribute its products only through one distributor
      供应商同意仅通过一家经销商销售其产品

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"Vertical" agreements between non-competitors Types of Infringement (3/3)
非竞争者之间的纵向协议、侵权类型（3/3）

- Selective distribution 选择性配销
  - where suppliers want to limit resale of their goods to approved dealers only – the dealers are selected on the basis of specified criteria
    供应商希望仅向少数已符合其特定要求的经销商授权销售其产品
  - the dealers cannot sell to anyone other than end-users or other appointed dealers 经销商不得向除最终用户或其他供应商指定的经销商以外的任何人出售产品
- Tying: a supplier ties the sale of one product to the sale of another distinct product
  搭售：供应商将一种产品与另一种不同产品进行捆绑销售

- One type of restriction in a vertical agreement that will always be **problematic** 纵向协议中的以下限制需特别谨慎
  - Resale price maintenance
    维持转售价格
    - it is illegal for the supplier to set the price at which the buyer of those products can resell them
      供应商在向买方销售产品时，要求后者以固定价格转售其产品是违法的

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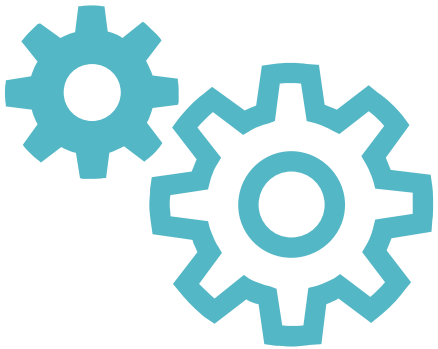
Vertical agreements: Can a manufacturer control the resale price of its products? (1/4)
纵向协议：制造商是否可以控制其产品的转售价格？(1/4)

- In a distribution agreement, a manufacturer cannot set the price at which its distributor resells the product
  在经销协议中，制造商不得设定经销商转售产品的价格
- To maintain control over the resale price, a manufacturer either
  若要保持对转售价格的控制，制造商需要：
  - needs to distribute the products itself; or
    自己销售其产品；或
  - needs to put in place an “agency” model – like Apple
    建立一个“代理”模式，例如 Apple 公司



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Vertical agreements: Can a manufacturer control the resale price of its products? (2/4)
纵向协议：制造商是否可以控制其产品的转售价格？ (2/4)

- What is an agency model? 什么是代理模式？

the **manufacturer** acts as **principal** 制造商作为委托人 ⟷ the **reseller** acts as the **principal's agent** 转销商作为委托人的代理人

  - the agent does not actually take ownership/title of the product
    代理人实际上并不拥有产品的所有权
  - so, the principal can control all elements of resale
    因此委托人可以控制转售的所有条件

- Disadvantage: the principal must take all commercial and financial risk with regard to the contracts for sale concluded by the agent
  缺点：委托人必须对代理人签订的销售合同承担所有商业和财务风险
  - if the agent takes some of the risk, it will likely be seen as acting independently, rather than as an agent 如果代理人承担部分风险，则该代理人很可能会被视为具有自主行为而不是代理行为

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Vertical agreements: Can a manufacturer control the resale price of its products? (3/4)
纵向协议：制造商是否可以控制其产品的转售价格？ (3/4)

- In a distribution agreement – a **non-agency** agreement - it is illegal for a supplier/manufacturer to control the price at which a distributor/reseller sells
  在经销协议（即**非代理**协议）中，供应商/制造商控制经销商/转售商销售产品的价格是违法的

the supplier/ manufacturer cannot fix the resale price 供应商/制造商不得固定转售价格	the supplier/ manufacturer cannot agree the resale price with the distributor/ reseller 供应商/制造商不得与经销商/转售商约定转售价格	the supplier/ manufacturer cannot control the rebate or discount that the distributor/ reseller can offer 供应商/制造商不得控制经销商/转售商提供的回扣或折扣	the distributor/ reseller cannot agree to be bound by a minimum price set by the supplier/ manufacturer 经销商/转售商不得接受供应商/制造商设定的最低转售价格

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Vertical agreements: Can a manufacturer control the resale price of its products? (4/4)
纵向协议：制造商是否可以控制其产品的转售价格？ (4/4)

- The manufacturer can
  制造商可以
  - set a maximum resale price – the distributor/reseller cannot sell at more
    设定最高转售价格，即经销商/转售商不得以更高的价格出售产品
  - recommend a resale price (**R**ecommended **R**esale **P**rice)
    建议转售价格（RRP）
    - but it must be a genuine recommendation
      必须是真正意义上的“建议”
    - can the manufacturer/supplier discuss RRPs with the distributor/reseller? Caution!
      制造商/供应商可以与经销商/转售商讨论 RRP 吗？谨慎！

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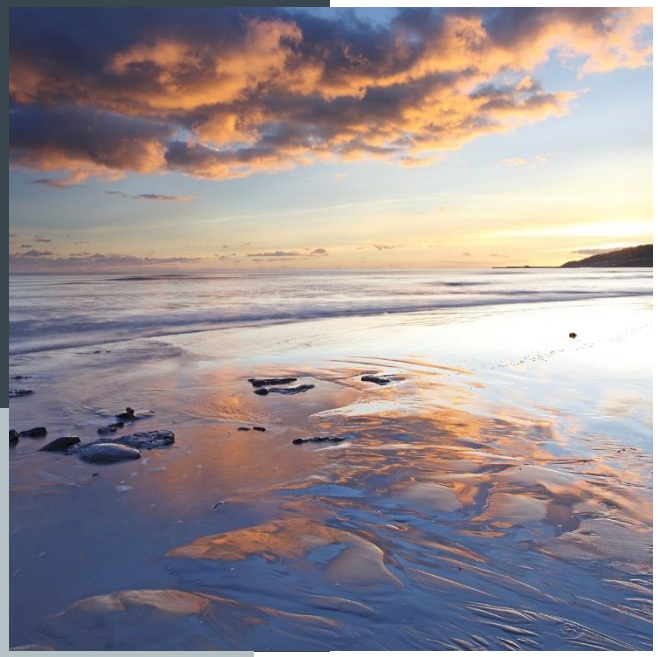
The current European Commission

现任欧盟委员会



Current EU Commission (1/2)
现任欧盟委员会（1/2）

- The European Commission is the competition law enforcer for the European Union
  欧盟委员会是欧盟竞争法的执法者
- The current mandate of the Commission will expire in Autumn 2019
  现任委员会的任期将于 2019 年秋季结束
- The current Commissioner for competition is Margrethe Vestager
  现任竞争事务专员是 Margrethe Vestager
- The current Commission still has a focus on cartel enforcement
  现任委员会的执法重点仍是卡特尔
- But, perhaps even more of a focus on big abuse of dominance cases and state aid decisions against US tech giants
  但可能更关注滥用市场支配地位案件以及针对美国科技巨头的国家补贴决策
  - Google
  - Apple

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Current EU Commission (2/2)
现任欧盟委员会 （2/2）

- The EC recognises the importance of the ability to innovate in competition
  欧盟委员会认识到创新能力在竞争中的重要性
  - any agreements or behaviour which restrict a company's ability to innovate are likely to be a concern
    任何限制公司创新能力的协议或行为都有可能引起竞争法问题

- National competition authorities are also active in enforcing in relation to tech
  一些国家的竞争主管机构也在积极执行与技术领域相关的调查工作
  - Germany, UK, France
    德国、英国、法国

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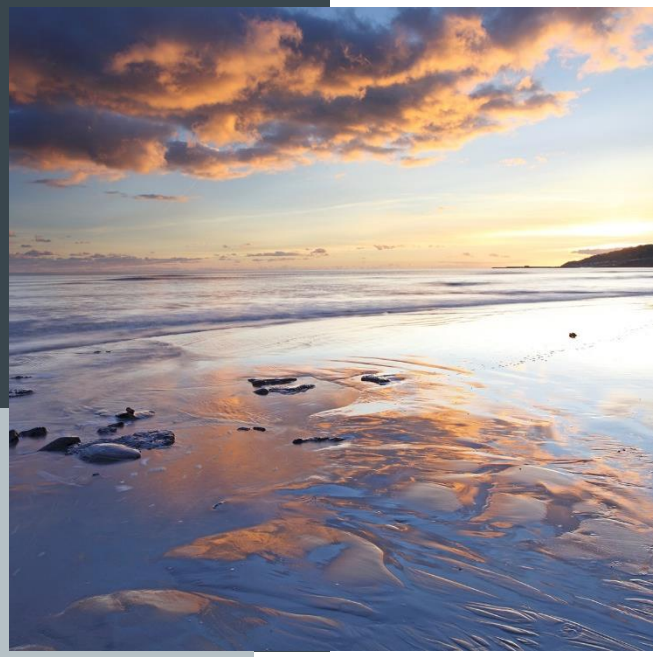
Are old competition law rules still relevant to new technology markets?

旧竞争法规则是否仍适用于新技术市场？

Abuse of Dominance

滥用市场支配地位



Must be both dominance and abuse (1/2)
必须同时具有支配地位且滥用该支配地位（1/2）

- Dominance *per se* is not an infringement 支配地位本身不侵权
- Dominance: "Relates to a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by giving it the power to behave to an appreciable extent independently of its competitors, customers and ultimately of its consumers." (Case 27/76, *United Brands)*
  支配地位："是指一个企业享有的经济实力地位，凭借该地位该企业具有了很大程度上独立于其竞争对手、客户和最终消费者的行为力量，进而能够阻碍相关市场的有效竞争。"（第 27/76 号，*United Brands* 案）

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Must be both dominance and abuse (2/2)
必须同时具有支配地位且滥用该支配地位 （2/2）

- Abuses set out in text of the prohibition include 明文规定的滥用行为包括：
  - directly or indirectly imposing unfair purchase or selling prices or unfair trading conditions
    直接或间接地施加不公平购销价格或不公平交易条件
  - limiting production, markets or technical development to the detriment of consumers
    限制生产、市场或技术开发，从而损害消费者利益
  - applying dissimilar conditions to equivalent transactions
    对同等交易适用不同条件
  - making the conclusion of agreements subject to acceptance of unconnected supplementary obligations
    缔结协议须接受毫无关联的补充义务

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Prohibition on abuse of dominance
禁止滥用市场支配地位

- If a company is dominant in a market, it has a special responsibility:
  如果一家公司占有市场支配地位，则该公司必须承担特殊责任：
  - not to exploit customers 不得利用客户
  - not to exclude competitors 不得排挤竞争者

- Abuses 滥用的行为
  - predatory pricing 掠夺性定价
  - excessive pricing 超高定价
  - discriminatory pricing 歧视定价
  - certain types of rebates 特定类型的回扣
  - exclusive dealing and long-term contracts
    独占交易及长期合同
  - refusal to supply or only supplying on unreasonable terms
    拒绝供货或只在满足不合理的条件下才供货
  - tying 搭售

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EC has brought a number of cases against large tech platforms 欧盟委员会已对多家大型科技平台提起诉讼

- **Google – 搜索引擎** Google
  - fined € 2.4 billion 被处罚款 24 亿欧元
  - abuse involved more favourable positioning and display by Google of its own comparison shopping service compared to competing comparison shopping services
    滥用表现为：在众多购物比价服务中，Google 会优先定位和显示自己的购物比价服务

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EC has brought a number of cases against large tech platforms 欧盟委员会已对多家大型科技平台提起诉讼

- **Google – Android 安卓系统**
  - fined €4.34 billion 被处罚款 43.4 亿欧元
  - abuse involved 滥用表现为：
    - requiring manufacturers to pre-install Google Search and browser app (Chrome) as condition for licensing Google's app store (Play Store)
      要求制造商预安装 Google 搜索引擎和浏览器应用程序 (Chrome)，否则拒绝授权其使用Google 应用商店 (Play Store)
    - making payments to manufacturers and mobile network operators in return for them exclusively pre-installing Google Search app on devices
      向制造商和移动网络运营商支付款项，作为其在设备上独家预安Google 搜索引擎应用程序的回报
    - preventing manufacturers wanting to pre-install Google apps from selling a mobile device running on alternative versions of Android
      对于想预安装 Google 应用程序的制造商，不允许他们出售在非安卓系统上运行的移动设备

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EC has brought a number of cases against large tech platforms 欧盟委员会已对多家大型科技平台提起诉讼

- **Qualcomm 美国高通**
  - fined € 997 million 被处罚款 9.97 亿欧元
  - abuse involved significant payments to key customer for exclusive use of its products, which denied rivals the possibility to compete
    滥用表现为：向主要客户支付巨额款项使其独家使用高通的产品，该行为剥夺了竞争对手的竞争权利
- **Intel 英特尔**
  - fined € 1,060 million 被处罚款 10.60 亿欧元
  - abuse involved conditional rebates aimed at foreclosing competitors (in particular AMD) from the x86 CPU market
    滥用表现为：为了将竞争对手（尤其是 AMD）从 x86 CPU 市场中排挤出去而提供有条件回扣

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Can a company be dominant in data? (1/3)
一个公司可以在数据方面支配市场吗?（1/3）

- Dominance can come up in the context of **data** 支配地位也可以存在于**数据**方面

data can improve products/services and delivery/distribution
数据可以改善产品/服务和配送/配销

data can create newer/better client offering
数据可以创造更新/更好的客户产品

data can create new areas of competition
数据可以创造新的竞争领域

data can make a powerful tool
数据可以成为强大的工具

more and better data can be pro-competitive
更多更好的数据可以促进竞争

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Can a company be dominant in data? (2/3)
一个公司可以在数据方面支配市场吗？（2/3）

- Ownership of data itself should not lead to competition concerns
  数据所有权本身不应当导致竞争关注

- But, not giving others access to data that is valuable and unique could constitute a barrier to entry
  但是，不允许他人获取有价值且独特的数据可能构成他人进入市场的壁垒

- The German competition authority (BKA) has been at the forefront of enforcement in this area
  德国竞争主管机构（BKA）一直处于该领域执法的最前沿

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Can a company be dominant in data? (3/3)
一个公司可以在数据方面支配市场吗？（3/3）

- The investigation by the BKA of Facebook
  BKA 对 Facebook 的调查
  - to become a user of Facebook, users had to agree that Facebook could use all the data generated by using third party websites and combine it with the user's Facebook account
    要成为 Facebook 的用户，用户必须同意 Facebook 可以使用，通过使用第三方网站产生的所有数据，并将这些数据与用户的 Facebook 账户相结合
  - Facebook says this analysis goes too far: not an abuse of dominance
    Facebook 表示这种分析过于偏激：它不是在滥用支配地位

- But, having access to more and better data may allow a company to offer its customers a better, more efficient, more tailored product/service
  但是，拥有更多更好的数据可能会使一个公司为其客户提供更好、更高效、更个性化的产品/服务

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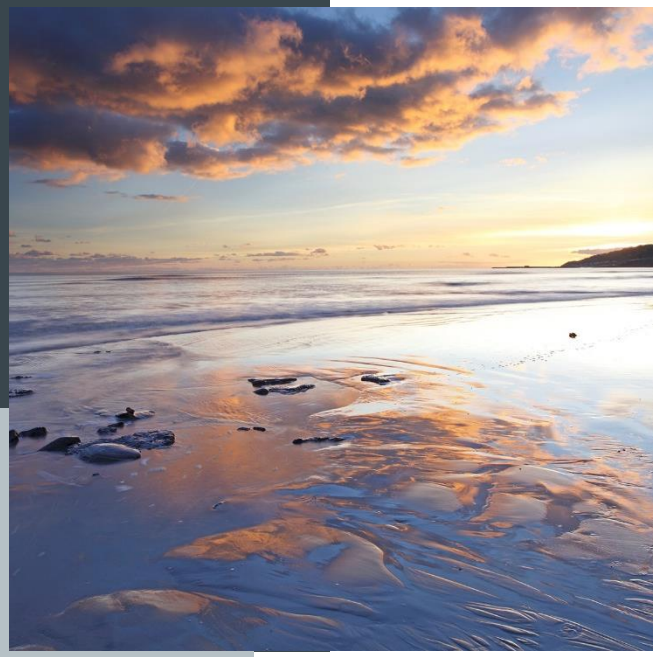
Are old competition law rules still relevant to new technology markets?

旧竞争法规则是否仍适用于新技术市场？

Anti-competitive Agreements

限制竞争协议



New types of cartels needs new types of enforcement
新型卡特尔（垄断协议）需要新型执法手段

- Cartels have a habit of "adapting like viruses to fight our attempts to kill them off" 卡特尔的特点就是"像病毒一样适应环境，以抵抗我们试图消灭它的努力"
  - October 2009, Nellie Kroes, previous Commissioner for Competition 前任竞争事务专员 Nellie Kroes，2009年10月

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New types of cartels needs new types of enforcement
新型卡特尔（垄断协议）需要新型执法手段

- EC is adapting, including thinking about how cartels are evolving
  欧盟委员会也在不断适应，包括思考卡特尔会如何逐步演变
  - e.g. it has opened an investigation looking at whether German car manufacturers have colluded, not on prices, but in relation to the release of new emission control technologies 例如，欧盟委员会已经开始调查德国汽车制造商是否相互勾结，不过关注点不是价格，而是新排放控制技术的发布
  - this also happened in the Trucks cartel – the EC found that truck manufacturers had colluded to delay introduction of more fuel efficient technologies 欧盟委员会也调查了卡车垄断联盟，发现卡车制造商串通好了要推迟采用更节能的技术
- The EC recognises the importance of strong competition for innovation
  欧盟委员会认识到激烈竞争对创新的重要性

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Data and Competition Law: Risks (1/3)
数据和竞争法：风险（1/3）

- Companies also taking advantage of new technology to set up cartels – finding smarter ways to avoid leaving traces of collusion

  公司在利用新技术来建立卡特尔，寻找更聪明的方法来避免留下合谋的痕迹

- Collusion between two companies using algorithms – or otherwise - would be a serious breach of competition law

  两家公司使用算法或其他方法进行勾结是严重违反竞争法的行为

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Data and Competition Law: Risks (2/3)
数据和竞争法：风险 （2/3）

- Non-coordinated price alignment
  非协同性价格调整
  - where algorithms of company A search the online market for competing products and those algorithms adjust company A's prices accordingly? A 公司使用算法在在线市场上搜索竞争产品，然后根据这些算法相应地调整 A 公司产品的价格，这算违反竞争法吗？
  - not a breach of competition law – even if prices end up being about the same
    没有违反竞争法，即使最终价格相差无几也不算违法
  - there is no "agreement"
    因为这中间没有"协议"

- Algorithmic price setting
  算法性价格设定
  - where an intelligent algorithm of Company A effectively "agrees" with an intelligent algorithm of Company B that the right price for everyone is at a certain level?
    A 公司的智能算法与 B 公司的智能算法效果上"一致"，即得出的对每个人的适用价格在某一水平上，这算违反竞争法吗？
  - more problematic
    有违法风险

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Data and Competition Law: Risks (3/3)
数据和竞争法：风险（3/3）

- Margrethe Vestager
  - firms have a responsibility to design the tools they use, including algorithms, in a way that does not – and that cannot – breach competition law
    公司有责任以不违反竞争法的方式设计使用的工具，包括算法
  - in the same way as those firms would have responsibility for what their employees do
    就像公司应对自己员工的行为负责一样
  - that may present a challenge, particularly in a world where algorithms are able to learn through experience and make more and more autonomous decisions
    这可能会带来挑战，毕竟现在算法能够通过经验进行学习并做出自主决策

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Data and Competition Law: Focus of competition authorities

数据和竞争法：竞争主管机构的关注点

- "*It is a hypothesis that not all algorithms will have been to law school. So maybe there are a few out there who may get the idea that they should collude with another algorithm who haven't been to law school either*."
  "假设并非所有算法都上过法学院。所以有些人可能会认为他们应该和其他同样没有上过法学院的算法进行合谋。"

- "*So of course, we would like to have our own algorithms to be out there, looking into the market, figuring out if there has been collusion taking place*" *"当然，我们也希望有自己的算法来调查市场，弄清楚是否有任何合谋行为"*

Margrethe Vestager

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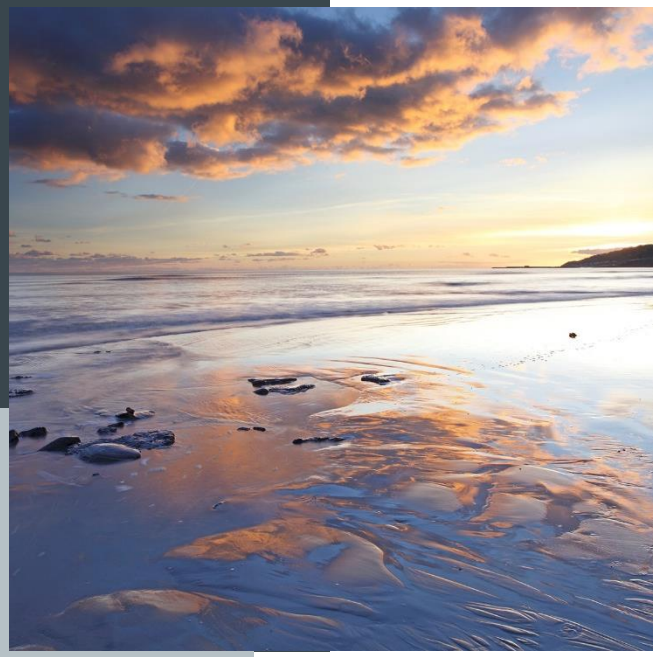
Are old competition law rules still relevant to new technology markets?

旧竞争法规则是否仍适用于新技术市场？

Merger Control

合并控制



Do current merger control thresholds capture all the transactions they should? (1/3) 当前的合并控制门槛能否捕获所有对竞争有影响的交易？（1/3）

- There is a concern that the existing merger control thresholds are not set at a level which can catch all transactions which have the ability to impact competition
  有人担心现有的合并控制门槛并不能捕获所有能够影响竞争的交易
- Merger control thresholds usually refer to the level of turnover generated in a country by the target and the acquirer
  合并控制门槛通常指目标公司和收购方在一个国家产生的营业额水平
  - if there is sufficient turnover to meet the thresholds, the deal is subject to review
    如果产生的营业额达到了该门槛数值，则该交易将受到审查

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Do current merger control thresholds capture all the transactions they should? (2/3) 当前的合并控制门槛能否捕获所有对竞争有影响的交易？（2/3）

- Where the target is a tech company or a start-up with valuable IP, it may generate no or very little turnover
  如果收购目标是一家科技公司或是一家拥有宝贵IP的初创企业，那么它可能未产生或只产生很少的营业额
  - and so the transaction falls below the radar and is not reviewed
    这样的话，该交易就未达到并购交易的门槛，从而不会受到审查

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Do current merger control thresholds capture all the transactions they should? (3/3) 当前的合并控制门槛能否捕获所有对竞争有影响的交易？（3/3）

- Some jurisdictions are reassessing their merger control thresholds to capture these transactions 一些司法管辖区正在重新评估其合并控制门槛，以有效捕获前面提到的这类违规交易
  - Germany and Austria have included an additional transaction value criteria 德国和奥地利已经增加了一项额外的交易价值标准
    - so, even if the turnover thresholds are not met, if the value of the transaction is high enough, the transaction will be caught and can be reviewed 这样一来，即使没有达到营业额门槛，如果交易的价值足够高，该交易就会被捕获并受到审查
  - the EC has also considered whether there is a need to change its thresholds 欧盟委员会也思考了是否有必要更改其并购交易门槛
    - although no changes have been made yet, this is still under review 虽然尚未进行任何更改，但该评估正在进行

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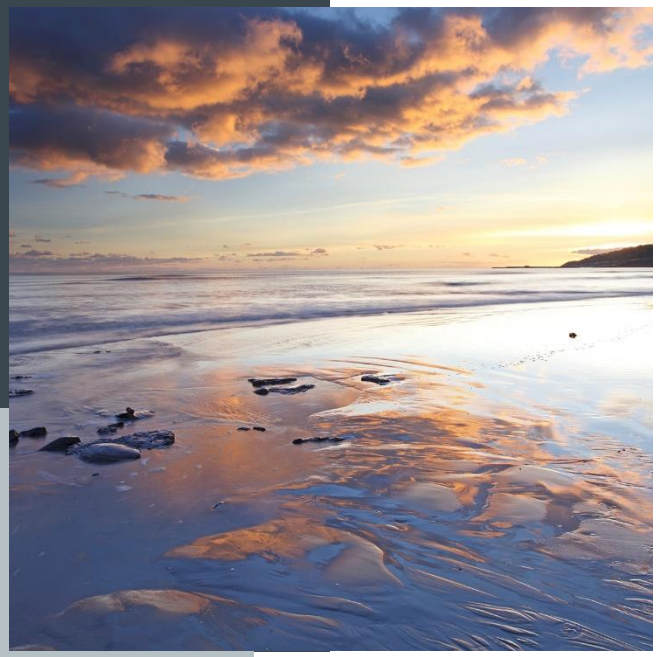
How do competition authorities find out about breaches of competition law?

竞争主管机构如何发现违反竞争法的行为?



How do competition authorities find out about breaches of competition law? (1/2)
竞争主管机构如何发现违反竞争法的行为？（1/2）

Complaints made by competitors (or clients) 竞争对手（或客户）的投诉

Sector enquiries / market monitoring / market studies
部门调查/市场监控/市场调研

- the E-commerce sector enquiry by the EC
  欧盟委员会对电子商务部门进行调查

Inter-agency co-operation (international)
机构间合作（国际层面）

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How do competition authorities find out about breaches of competition law? (2/2)
竞争主管机构如何发现违反竞争法的行为？（2/2）

Leniency applicants
宽恕申请人

Whistleblowers / disgruntled employees
举报人/不满的员工

Dawn Raids
突击检查

- where a competition authority makes a visit to the premises of a company it suspects has breached competition law
  竞争主管机构对其怀疑违反了竞争法的公司的经营场所进行访问
  - announced inspection 提前通告的检查
  - unannounced inspection 未提前通告的检查

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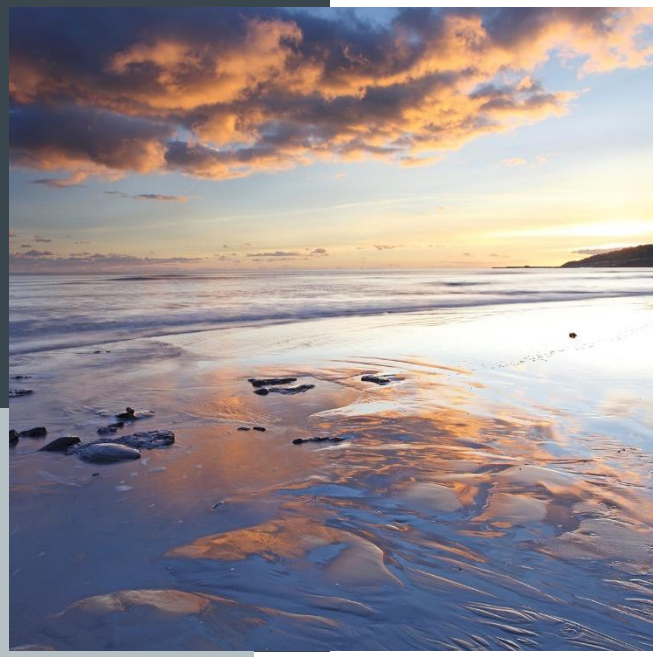
Competition law
竞争法

Not just risks but also opportunities
风险与机会并存



Opportunities?
有哪些机会？

- Competition law is not all about risk for a tech company
  对于科技公司来说，竞争法带来的并不都是风险
- There are also potential opportunities
  还有一些潜在机会
- Competition law can be used to the benefit of tech companies:
  竞争法为科技公司带来的好处包括：
  - to push back on agreements which contain restrictions you do not like
    拒绝接受包含限制性条款的协议
  - to push back on dominant companies doing something which may be abusive
    阻止具有市场支配地位的公司做一些可能涉及滥用支配地位的行为
  - to bring damages claims against your suppliers which have been involved in cartel behaviour 向参与垄断协议或垄断行为的供应商提出损害赔偿

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Simmons & Simmons

Peter Broadhurst

Partner 合伙人
Simmons & Simmons LLP
西盟斯律师事务所

电话 +44 20 7825 3374
电邮 Peter.Broadhurst@simmons-simmons.com

simmons-simmons.com
elexica.com

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