

China IPR – Intellectual Property Developments in China

China: patents, trademarks, copyright, infringement, piracy, innovation policies

2017/03/19 by CHINAIPR2

GAI's Comments on AUCL

Ahead of schedule, George Mason University's Global Antitrust Institute ("GAI") has prepared its comments on the NPC's proposed revisions to the Anti-Unfair Competition Law. (<https://chinaipr.com/2017/02/28/anti-unfair-competition-law-released-for-public/>) available here. (https://chinaipr2.files.wordpress.com/2017/03/gai-aucl-comment_3-19_17_final.pdf)

GAI commended the National People's Congress for deleting Article 6 on abuse of superior bargaining position and recommended that any provisions that relate to conduct covered by China's Anti-Monopoly Law (AML) be omitted entirely. GAI also strongly urged that Article 11 (which provides that "[b]usiness operators selling goods must not bundle the sale of goods against buyers' wishes, and must not attach other unreasonable conditions") be omitted in its entirety, as such conduct is already covered by Article 17(5) of the AML or at the very least, Article 11 should be revised to adopt an effects-based approach.

In my opinion, the argument that the AUCL shouldn't duplicate the AML can also be said of other laws in China, notably the Technology Import / Export Regulations and Article 329 of the Contract Law (https://www.uscc.gov/sites/default/files/Mark%20Cohen_testimony.pdf) regarding monopolization of technology. Other laws, such as the Pricing Law also have a strong overlap with the AML, particularly as administered by NDRC.

GAI's comments on a prior State Council Legislative Affairs Office draft, along with the comments of the American Bar Association and American Intellectual Property Law Institute are available through this link (<https://chinaipr.com/2016/03/25/gai-and-aba-publish-their-aucl-comments/>).

I hope to post the comments of other organizations on the AUCL on this blog in the future. If you would like your organization's comments to be considered for distributing here, please send your comments to me at: chinaipr@yahoo.com.

This entry was posted in [AUCL](#), [China IPR](#), [GAI](#), [NPC](#), [Technology Transfer](#), [TIER](#).

Bookmark the [permalink](#).

[Leave a comment](#)

[Blog at WordPress.com.](#)