


China Antitrust Gets Global

In an interesting Editorial, the *Financial Times* discussed yesterday recent rulings of Chinese authorities demonstrating their willingness to enforce Chinese anti-monopoly law in respect of global deals. Indeed, the *FT* reports that two out of three of the deals had only secondary implications in China (other reports on the deals can be found [here](#) and [here](#)). 

As the *Editorial* notes, an interesting consequence is that Chinese law will only be another legislation purporting to reach global deals:

The three rulings ... show that Beijing will not hesitate to intervene in largely extra-territorial deals. That means China has joined the US and the European Union as a global competition referee, providing M&A lawyers with a fresh set of problems to wrestle with.

What is too bad for M&A lawyers, of course, is that you cannot really pick up one of the relevant laws. The traditional choice of law methodology does not work. Each forum is concerned with the protection of its own market, and does not really consider applying foreign law. You could give a variety of rationales for that result, but the most common is probably that antitrust laws are mandatory rules.

So your options are either to develop a regime for the resolution of conflicts of mandatory rules, or hope that the authorities of the relevant markets will conclude agreements on the application of their laws, as the U.S. and the E.U. have done. I wonder whether there is any similar agreement with China.