

UNBUNDLING COMPETITION: ASIA COMPETITION LAW PODCASTS

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Podcasts

In this podcast, members of the Herbert Smith Freehills Competition, Regulation and Trade team examine key competition law and related regulatory developments. In each instalment, we update you on the latest developments across Asia, as well as those affecting Asian businesses around the world, from merger control and foreign direct investment regulation to cartels and compliance.

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SERIES FOUR - NEW FRONTIERS FOR COMPETITION LAW

In this series our Asia-Pacific competition and regulatory team discuss new and interesting areas into which competition law enforcement and guidance have spread in recent years.

Episode 12: New Frontiers for Competition Law - Competition law and employment

Asia Head of Competition [Adelaide Luke](#) and Tokyo senior associate [Joel Rheuben](#) discuss recent enforcement practice by competition authorities in labour markets, including in particular practices such as wage fixing and "non-poach" agreements between employers, as well as non-compete provisions in employee contracts. Companies should ensure that their compliance efforts extend to labour markets as much as to markets for goods and services.

Episode 13: New Frontiers for Competition Law - Competition law and ESG

Melbourne senior associate, [Philip Aitken](#), is joined by [Marcel Nuys](#), partner in the HSF competition team in Dusseldorf and [Sakurayuki](#), M&A partner at HSF associate firm Hiswara Bunjamin & Tandjung to discuss the complex and evolving interaction between competition law and ESG collaborations. The panel discusses the approaches taken by competition authorities in Europe, Asia and Australia to this complex issue.

Episode 14: New Frontiers for Competition Law - Competition law in the healthcare and pharmaceuticals sector

Senior associate [Howard Chan](#) discusses competition law enforcement in the pharmaceutical sector with [Frances Xu](#) and Hazel Xu of our joint legal operation partner Kewei Law Firm, comparing the key areas of focus for competition law regulators in China and around the world.

SERIES THREE - COMPETITION LAW IN DIGITAL MARKETS

Episode 9: Competition Law in Digital Markets - Digital platforms and competition regulation

Asia Head of Competition [Adelaide Luke](#) and Australia senior associate [Patrick Clark](#) discuss how competition authorities approach digital platforms, the new and unique competition concerns that authorities might identify with those businesses, and the global trend to develop innovative regulatory responses.

Episode 10: Competition Law in Digital Markets - Pricing practices in digital platforms

As digital platforms continue to grow in influence and importance across economies around the world, competition law regulators around the world are turning their sights on various practices that are common in the digital sector. In this episode of Unbundling Competition, senior associate [Howard Chan](#) and Herbert Smith Freehills Kewei Law Firm partner [Frances Xu](#) consider potentially problematic pricing practices on digital platforms, including recent updates from China.

Episode 11: Competition Law in Digital Markets - The role of data in merger control analysis

Asia Head of Competition [Adelaide Luke](#) and Tokyo senior associate [Joel Rheuben](#) discuss the increasingly significant role that data plays in merger control analysis by competition authorities worldwide. Analysis of data as a factor of competition is being examined not only in deals involving large digital platforms, but also in more traditional sectors, as companies seek to monetise data they produce and use data analytics to gain an edge over their competitors. However, the unique characteristics of data create challenges when considering it through a conventional competition law lens.

SERIES TWO - SCREENING OF ASIAN INVESTMENT IN EUROPE

Episode 5: Screening of Asian investment in Europe - The UK's proposed new National Security and Investment regime

Tokyo senior associate [Joel Rheuben](#) and head of HSF's global Foreign Direct Investment group [Veronica Roberts](#) discuss the recent bill for a new National Security and Investment screening regime in the UK. The proposed regime introduces mandatory notification requirements for investments (including minority investments) in certain key sectors, adding to the regulatory complexity for Asian companies doing deals in the UK.

A summary of the podcast is available [here](#). Accompanying slides are available [here](#).

Episode 6: Screening of Asian investment in Europe - The European Commission's White Paper on foreign subsidies

Asia Head of Competition [Adelaide Luke](#) and EMEA Head of Competition [Kyriakos Fountoukakos](#) provide an overview of the European Commission's recent "White Paper on Levelling the Playing Field as regards Foreign Subsidies". They discuss the various models under consideration for reviewing a wide range of foreign government and public body support for companies that impacts competition in the EU. If implemented, the proposals under this White Paper are likely to have a substantial impact on investment in Europe by Asian companies in particular.

A summary of the podcast is available in [English](#) | [🇬🇧](#) | [🇪🇺](#) | [🇬🇧](#)

Episode 7: Screening of Asian Investment in Europe - UK competition law after Brexit

Head of Competition Asia, [Adelaide Luke](#), and London partner [Mark Jephcott](#) discuss the UK competition law system, and how it will apply to Asian companies after the expiry of the UK EU Withdrawal Agreement on 31 December 2020. Asian companies with operations in both the UK and EU should be aware that, from 2021, the two competition regimes will operate in parallel, and should note key differences.

A summary of the podcast is available in [English](#) | [🇬🇧](#) | [🇬🇧](#)

Episode 8: Screening of Asian investment in Europe - The EU Regulation on the screening of foreign direct investment

Tokyo senior associate [Joel Rheuben](#) and EMEA Head of Competition [Kyriakos Fountoukakos](#) outline the Regulation on the Screening of Foreign Direct Investment, which became fully operational in October 2020. They provide an overview of the relationship between the screening framework established under the Regulation, and the potential impact for Asian companies investing into sensitive sectors in the EU.

A summary of the podcast is available in [here](#).

SERIES ONE - COMPETITION LAW IN SOUTHEAST ASIA 2020

In the inaugural series of the Unbundling Competition podcast, [Adelaide Luke](#) (Partner and Asia Head of Competition) discusses recent developments in competition law regimes in Southeast Asia with experts in the region.

Episode 1: Competition Law in Southeast Asia - Regional enforcement and Thailand

Adelaide and Tokyo senior associate [Joel Rheuben](#) review the current state of competition law enforcement in Southeast Asia, and take a closer look at Thailand, where the competition law regime has changed significantly. This episode is a good starting point for understanding why and how Southeast Asia is an increasingly important region for deal and competition compliance planning.

A summary of the podcast is available [here](#) | [Podcast Summary](#) | [Podcast Summary in Indonesian](#) | [Podcast Summary in Indonesian](#) | Ringkasan podcast dalam Bahasa Indonesia tersedia [di sini](#)

Episode 2: Competition Law in Southeast Asia - Indonesia

Adelaide and Hiswara Bunjamin & Tandjung partner [Sakurayuki](#) discuss recent amendments to Indonesia's competition law rules and its proposed new legislation. [Hiswara Bunjamin & Tandjung](#) is Herbert Smith Freehills' longstanding associate firm in Indonesia. This episode provides a broad overview of the rapidly changing competition law landscape in Indonesia and the direction of future reform.

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Episode 3: Competition Law in Southeast Asia - Singapore

Adelaide and Prolegis Managing Director [Ban Leong Oo](#) discuss the competition law landscape in Singapore and look at the Competition & Consumer Commission of Singapore, regarded as one of the most active and sophisticated regulators in the region. [Prolegis](#) is Herbert Smith Freehills' formal foreign law alliance partner in Singapore. This episode explains why companies doing business in the region should pay attention to the Singaporean regime.

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Episode 4: Competition law in Southeast Asia - Vietnam

Adelaide and Frasers Law Company partner [Justin Gisz](#) discuss the newly enacted Vietnamese Competition Law, which is anticipated to lead to a new era of competition law enforcement in Vietnam. [Frasers Law Company](#) is an independent, full service commercial law firm based in Vietnam. This episode provides a practical overview of the new law, including the implications for merger control.

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HERBERT SMITH FREEHILLS KEWEI COMPETITION LAW PODCASTS (CHINESE LANGUAGE)

[1]: 中国反垄断法

—— 中国竞争法监管机构，国家市场监督管理总局，最近发布了其《平台经济反垄断指南》征求意见稿。这些指南预计将对科技巨头未来的监管产生深远影响，涵盖了一系列市场中的常见做法，包括排他性和忠诚度诱导行为。在本播客中，Herbert Smith Freehills 的关联律师 [Howard Chan](#) 与 Kewei Law Firm 的合伙人 [Frances Xu](#) 和关联律师 Hazel Xu 讨论了这些更新。

Episode 1: SAMR Guidelines on overseas competition compliance: China's competition law regulator, the State Administration for Market Regulation, has recently released its Antitrust Guidelines on Platform Economies for consultation. These Guidelines are expected to have far-reaching consequences on how tech giants will be regulated in future, covering a range of common practices in the market, including exclusivity and loyalty inducing conduct. In this podcast, Herbert Smith Freehills associate [Howard Chan](#) discusses these updates with Kewei Law Firm partner [Frances Xu](#) and associate Hazel Xu.

[2]: 中国反垄断法

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Episode 2: SAMR guidelines on platform economies - deep dive into "one between two" arrangements: China's competition law regulator, the State Administration for Market Regulation, has recently released its Antitrust Guidelines on Platform Economies for consultation. These Guidelines are expected to have far-reaching consequences on how tech giants will be regulated in future, covering a range of common practices in the market, including exclusivity and loyalty inducing conduct. In this podcast, Herbert Smith Freehills associate [Howard Chan](#) discusses key issues such as "one between two" arrangements and market definition for platform operators in detail with Kewei Law Firm partner [Frances Xu](#) and associate Hazel Xu.

[3]: 中国反垄断法

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Episode 3: personalized pricing through data analytics - the data protection and antitrust perspectives: In the recently released consultation draft of the Antitrust Guidelines on Platform Economies, China's State Administration for Market Regulation addresses the conduct of pricing discrimination through the use of big data and algorithms, also known as 'personalised pricing'. This is both an antitrust issue, and a data protection issue. In this podcast, Kewei Law Firm partner [Frances Xu](#) discusses personalized pricing with Herbert Smith Freehills Of Counsel [James Gong](#) and Associate [Howard Chan](#).

[4]: 中国反垄断法

—— 中国竞争法监管机构，国家市场监督管理总局，最近加强了其在打击反竞争行为方面的努力，包括在制药行业。它已经发布了几项重大的行政处罚决定，例如对扬子江药业集团实施垄断协议案处以创纪录的罚款，并防止和预防垄断性行为。在本播客中，Herbert Smith Freehills 的高级关联律师 [Howard Chan](#) 与 Kewei Law Firm 的合伙人 [Frances Xu](#) 和关联律师 Hazel Xu 讨论了如何改善中国制药企业的监管合规。

Episode 4: Competition enforcement and compliance in the pharmaceutical sector: The State Administration for Market Regulation has recently intensified its efforts in tackling anti-competitive practices in various industries, including the pharmaceutical sector. It has issued several major administrative penalty decisions, such as the record fine against Yangtze River Pharmaceutical Group for implementing monopoly agreements. The competition law regulator stressed that it would continue to strengthen anti-monopoly law enforcement in the pharmaceutical sector to curb and prevent monopolistic conduct for the purpose of protecting consumer interests and ensuring fair market competition. In this podcast, Herbert Smith Freehills senior associate [Howard Chan](#) discusses with Kewei Law Firm partner [Frances Xu](#) and associate Hazel Xu how Chinese pharmaceutical enterprises can improve regulatory compliance.

[5]: 中国反垄断法

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Episode 5: Determining the arbitrability of competition law in China: The question of the arbitrability of competition law related issues have been considered in many jurisdictions around the world. Whilst resolution of competition disputes by way of arbitration has been recognised in some jurisdictions such as the European Union and the United States, the public law nature of competition law is still a major factor considered by the Chinese courts when deciding the extent to which antitrust issues can be covered by an arbitration agreement. In this podcast, Herbert Smith Freehills senior consultant [Stella Hu](#) and senior associate [Howard Chan](#) discuss the arbitrability of competition law in China with Kewei Law Firm partner [Frances Xu](#).

RECENT DEVELOPMENTS IN CARTEL INVESTIGATION & LENIENCY PRACTICES, IN & OUTSIDE JAPAN (BILINGUAL)

Recent developments in cartel investigation & leniency practices, in & outside Japan (English)

HSF Tokyo senior associate [Joel Rheuben](#) is joined by [Yusuke Takamiya](#), a partner at leading Japanese law firm Mori Hamada & Matsumoto, to discuss recent developments in cartel investigation and leniency practices. Recent amendments to Japan's Antimonopoly Law have provided the Japan Fair Trade Commission (JFTC) with wider discretion in setting cartel fines, with the aim of encouraging greater cooperation from cartel leniency applicants. At the same time, the JFTC has promised greater protection for confidential attorney-client communications during cartel investigations. This podcast provides an overview of these developments, as well as a counterpoint from the recent practice of jurisdictions outside of Japan.

中国反垄断法

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KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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