



Chinese antitrust exceptionalism: How the rise of China challenges global regulation

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wide array of examples of how China has rapidly risen to become a force to reckon with in the digital marketplace, the analysis lacks the depth that might have been provided by incorporating the findings of empirical research or views of multiple experts rather than relying on one perspective. The author relies significantly on his own experiences and observations, thus missing the opportunity to draw from the findings of other scholars who have studied China's digital rise. He also fails to give due credit to China's contributions to improving the millions of low-income populations to which technology would still be unavailable were it not for the country's efforts. Although China's methods and aims might be questionable, there is no doubt that millions have the nation to thank for bringing digital technologies within their reach. Nevertheless, he provides a worthwhile starting point for studying the global digital landscape, as the book is written in an easy-to-read format and includes good examples of the matters in question. The book would be a practical introduction for readers who seek to gain a baseline understanding of the implications of China's digital rise.

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Reference

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Chinese antitrust exceptionalism: How the rise of China challenges global regulation, by Angela Huyue Zhang, Oxford: Oxford University Press, 2021, £32.99 (hardcover), 270 pp.

The escalating tension between China and the United States has become increasingly critical in international politics, with the trade war between the two superpowers dominating news headlines. Since Donald Trump's presidency, trade disputes between China and the US have grown exponentially, affecting mergers and acquisitions, global supply chains, intellectual property, etc. Angela Zhang's book *Chinese Antitrust Exceptionalism: How the Rise of China Challenges Global Regulation* is a timely and significant contribution that offers readers a valuable perspective for understanding the nuances of competition in the realm of anti-monopoly law (AML) within the Chinese context.

Chapter 1 delves into the bureaucratic politics surrounding AML and its implementation. Zhang highlights that before the formation of the State Administration for Market Regulation (SAMR) in 2018, three agencies were responsible for the enforcement of AML

in China, namely, the National Development and Reform Commission (NDRC), the State Administration for Industry and Commerce (SAIC), and the Ministry of Commerce (MOFCOM) (p. 25). Zhang argues that the competition for resources and the personal preferences of staff within these agencies have significantly shaped the implementation of AML. Using the case of Xu Kunlin, the former head of the antitrust bureau at the NDRC, Zhang contends that a mid-career agency leader with political aspirations tends to enforce AML more proactively and assertively (p. 35). In short, this chapter emphasizes the importance of understanding the bureaucratic framework to capture the dynamics involved in AML implementation.

In the thought-provoking Chapter 2, Zhang emphasizes a unique aspect of Chinese AML execution, namely, the use of public shaming and administrative punishment. In the Chinese setting, companies seldom confront the state administration in courts due to the fear of retaliation and reputational consequences (p. 218). The Qualcomm case stands as a rare exception, where the administration threatened the business's core interests. Zhang suggests that an essential element of Chinese antitrust exceptionalism resides in its non-legal enforcement strategies, which actively utilize public opinion and social norms to achieve business compliance. A notable example occurred in 2013 when Wyeth's business executive appeared on a CCTV program alongside NDRC officials to publicly apologize for the company's conduct. This cooperative attitude of the company eventually led to "full immunity from punishment" (p. 68). Thus, Chapter 2 highlights the importance of recognizing how the regulation of large corporations can go beyond the realm of formal legal rules.

Chapter 3 focuses on merger control. A crucial point made in this chapter is that, after years of reform, state-owned enterprises (SOEs) in China have acquired significant autonomy and market influence (p. 144), so that general Western perceptions that view Chinese SOEs as necessarily dominated by the state are inadequate. The mixture of market autonomy and partial state control poses unique challenges for Western regulatory frameworks. Zhang proposes that Western regulatory agencies should employ a *de facto* standard instead of applying the *de jure* standard when evaluating Chinese SOEs. In other words, as Zhang suggests, "[t]he real question is not if a state *can have* control over SOEs but whether it *does have* such control" (p. 161, original emphasis). In summary, Chapter 3 highlights the limitations of current Western antitrust frameworks when applied to the Chinese situation.

Chapter 4 turns to the challenges faced by Chinese exporters, especially the potentially conflicting demands between antidumping laws and antitrust laws, which place exporters in a rather uncertain position. Zhang uses the well-known Vitamin C case from 2005 to demonstrate her main arguments. The Vitamin C case initially involved accusations against Chinese vitamin C producers of colluding through an export cartel to gain dominance in the global market, as claimed by a group of US purchasers. Interestingly, as Zhang notes, the Chinese defendants did not deny this claim; instead, they argued that the Chinese government had compelled them to engage in such behavior. In support of the Chinese producers' argument, the MOFCOM submitted an *amicus* brief to the US court (p. 165). The case eventually reached the US Supreme Court, which decided that the court should grant "a high level of deterrence to the executive branch" (p. 198). Zhang contends that this implies "the outcome of such cases will turn not only on law but also politics" (p. 199). This chapter underscores the implicated relationships between politics and law in international antitrust disputes.

Chapter 5 further examines the politicization and weaponization of antitrust regulations in the growing China-US technology conflict. Drawing on international relations scholars, Zhang argues that the US has been exploiting "its unique position as an important hub within the global network" to weaponize economic interdependence (p. 209). At the same time, other countries have challenged this approach. Using Thomas Schelling's game theory framework, Zhang posits that AML is part of China's "tit-for-tat strategy against aggressive

US sanctions” (p. 233). Zhang demonstrates that, despite Chinese authorities denying political motivations in the implementation of AML, the Chinese government can in practice, for example, penalize US companies by delaying merger approvals involving US firms (p. 233). This chapter emphasizes that understanding AML implementation requires considering not only domestic political factors but also geopolitical and foreign policy dynamics.

The book demonstrates five different facets of Chinese antitrust exceptionalism (pp. 10–16): (1) Chinese antitrust implementation is influenced by bureaucratic concerns and incentives (Chapter 1); (2) Chinese antitrust enforcement employs public media and administrative discretion to achieve business compliance, rather than solely relying on legal mechanisms (Chapter 2); (3) the prevailing EU antitrust framework struggles to accurately define the boundaries of SOEs in antitrust cases, leading to either over- or under-inclusion (Chapter 3); (4) Chinese exporters face a dilemma between antidumping and antitrust laws, which results in conflicting demands (Chapter 4); and (5) antitrust laws are increasingly used as a foreign policy tool by the Chinese government in response to US sanctions and aggression (Chapter 5). Overall, the book convincingly demonstrates that antitrust law in China is primarily a political issue and only secondarily an economic one. The ambiguous boundaries of firms and the flexibility of AML enforcement grant enforcement agencies considerable discretionary power in determining how and when AML should be enforced.

A key strength of the book is Zhang’s construction of a multidimensional and comprehensive theory of antitrust exceptionalism within the Chinese context, covering economic, political, and legal aspects. She draws not only on the work of legal scholars but also that of political scientists specializing in China studies and game theorists in international relations. The book’s interdisciplinary approach allows readers to explore broader questions beyond mere legal rules and procedures, offering an invaluable starting point for political scientists and other social scientists to consider how antitrust law can be and has been shaped in the face of geopolitical conflicts. In other words, the book provides valuable insights into how states compete with each other by reconstructing corporate power through competition law.

As no book can encompass all aspects of a particular subject or issue, readers may wonder about other stakeholders. Traditionally, antitrust law aims to shape competition between businesses to ensure that fair competition will benefit the relevant stakeholders, such as consumers and society at large. Although the book occasionally touches on the role of AML in maintaining stability in the Chinese context (p. 140), it does not address how the reshaping of AML and its enforcement due to increasing geopolitical tensions might impact other major stakeholders, such as workers and citizens generally. That said, Zhang’s book creates valuable opportunities for other scholars to explore the questions not addressed in this impressive work.

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