

# Foreword

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I first met Professor Xiaoye Wang in 1998 while participating in the work of the OECD competition committee in helping China draft its anti-monopoly law. In the following years I got to know her very well, during that process and at many conferences, meetings and other events concerning competition law – whether held in China or other countries. In my view, she has been the single most important figure in the creation of Chinese anti-monopoly law. Therefore, when she asked me to contribute a foreword for this book, I was very pleased to do so, knowing that this volume brings together in English some of her major writings. In this Foreword, I summarize her remarkable personal life and professional career and then provide a brief overview of her work and contributions.

## PROFESSOR WANG'S CAREER

Professor Wang has a remarkable life story. In 1966, when she was about to begin university studies, the cultural revolution led to the closure of universities, high schools and primary schools and instead she spent the next 12 years or so working in the countryside and then in factories and government agencies. Only after the policy change announced in late 1978 was she able (at the age of 30 and as a mother of two children) to undertake undergraduate studies at the Inner Mongolia Normal University. She then very successfully completed graduate studies at Renmin Faculty of Law, completing a master's dissertation in December 1984. In 1988 (close to the age of 40) she went to Germany. Under the supervision of Professor Ernst-Joachim Mestmäcker, she successfully completed in 1993 her seminal doctoral thesis entitled, *Monopoly and Competition in the Chinese Economy – a Comparative Analysis of US and German Merger Control*.

Accordingly, when she returned to Beijing in August 1994, she was deeply knowledgeable of European (especially German) and United States competition law and so was well positioned to help design a Chinese anti-monopoly law. On her return, she took up a position at the Institute of Law at the Chinese Academy of Social Science and, despite

the fact that a number of leaders at that institute had warned her against researching anti-monopoly law because it was considered incompatible with China's national conditions, she devoted her academic life to the study and promotion of anti-monopoly law in China.

## CREATION OF CHINESE ANTI-MONOPOLY LAW

Professor Wang's greatest contribution has been in relation to the creation of China's Anti-Monopoly Law.

The Chinese Government officially began the drafting work for the anti-monopoly law in 1994 – the year Professor Wang returned from Germany. She spent from then until around August 2007 participating as the most important intellectual figure in the drafting of the anti-monopoly law which was adopted in 2007.

Professor Wang was invited to participate in the legislative drafting team, which gave her the opportunity to dedicate her talent and expertise to the acceptance and drafting of the anti-monopoly law. She did this through constant advocacy within government and academic circles within China and globally. She took part in all three stages – first with the relevant ministries that prepared the draft law; then, secondly, with the State Council, which is the principal administrative organ of government; and then, finally, with the National People's Congress – the country's highest lawmaking body. She was the intellectual leader of the journey.

The outcome is one of the world's most important laws. When it was enacted, Professor Wang says in the introductory chapter of this volume, she felt a mixture of happiness, excitement and, at the same time, as there are some deficiencies in the law, some melancholy. The law embodies world best practice, arguably as a result of the efforts of Professor Wang and her supporters, while containing some 'Chinese characteristics' which have some potential to undermine key principles of competition in the implementation process.

## RESEARCH

Professor Wang has also had a major impact in China through her very extensive publications. She has been the sole author of seven important books and of over 230 articles in Chinese, English and German about Chinese competition law. She is also co-author or editor of a further 11 books. That is her publication record to date – and her productivity as a

researcher is far from over. The work represents the leading research on China's Anti-Monopoly Law and has been widely and favourably reviewed and adopted around the world.

It is difficult to provide a short summary of such a far-reaching body of work but there are four aspects that should be stressed. First of all, Professor Wang published path-breaking work about the nature and extent of the competition problem in the Chinese economy. Secondly, she has had a major impact on what the law should be and what competition policy more generally should be about. That work ranged both wide and deep. It has provided a framework for debate and discussion and analysis of Chinese competition law and policy that is as relevant today as when she launched it. Thirdly, she has made a large contribution since 2008 to the application and development of competition law in practice. Fourthly, she has made a wider contribution in terms of her involvement with government. The Chinese Government in many ways has used her work. Sometimes they draw on her public work, sometimes they go to her lectures, and at other times they consult her. In all ways she has been highly influential and highly effective.

## TEACHING

Professor Wang has also been an outstanding teacher and, through her lecturing and PhD supervision, she has been responsible in part for the creation of a new younger generation of potentially outstanding scholars. Her educational efforts, however, extend to practitioners, whether in government or in the world of legal practice. It includes a contribution internationally as we all look to her as the academic who can explain to the world what is happening in competition law in China.

In regard to her academic role, it should also be noted that she has given many lectures locally, internationally and in all manner of forums of specialists and government officials around the world.

## KEY VIEWS

In the long process of the drafting of the Chinese anti-monopoly law, Professor Wang contributed a great deal to the basic design of the law. It is difficult to briefly describe her key views but she does so succinctly in the introductory chapter to this volume. She believes the following: that anti-monopoly law is a basic law for the establishment of China's market economy; anti-monopoly law should regulate mergers and acquisitions;

anti-monopoly law must prohibit administrative monopoly; anti-monopoly law should apply to monopoly industries; and China should establish a unified independent and powerful anti-monopoly enforcement authority. The articles in this volume set out these key views at length.

As Professor Wang says in her Preface, this volume not only comprehensively outlines the historical background of China's Anti-Monopoly Law and explains the basic content of the law in detail, but it also thoughtfully considers the various challenges the law will face in implementation. The volume also records the anti-monopoly law's difficult legislative journey and reflects the views and different perspectives of Chinese society on the market economy, market competition, market order (as disciplined by the force of competition) and other important theoretical questions. I believe that this volume is an important reference for the international community to understand China, China's economic and legal system and, in particular, its anti-monopoly law. The book also provides witness to the legislative process which gave rise to the anti-monopoly law. I believe this volume is of enduring value and commend it to readers.

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