

FTC and DOJ Agree with Indian Competition Authorities to Increase Cooperation and Communication: An Increasing Relevance of India and China in Global Transactions

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The U.S. Federal Trade Commission (FTC) and the Department of Justice (DOJ) recently signed an antitrust memorandum of understanding (MOU) with the Government of India Ministry of Corporate Affairs and the Competition Commission of India (CCI), promising to increase cooperation and communication among competition agencies in both countries.¹ It is the 12th cooperation agreement for the U.S.

Key provisions establish a framework for formal cooperation on transactions that may be in their common interests and a means to keep each other informed of significant competition policy and enforcement developments in their jurisdictions. The agreement does not change existing law in either country.

Increasing Relevance of India and China in Transaction Reviews

The agreement with India marks an increasing relevance of countries with emerging economies in transactions and merger enforcement, as a growing number of international mergers affect India and the People's Republic of China. China signed a similar agreement with the U.S. last year.

India and China also have new competition laws and practices. India adopted its modern competition law in 2002 with main provisions in effect between 2009 and 2011. China recently passed the fourth year since it adopted a new Anti-Monopoly Law (AML), after more than 10 years of drafting.

The merger control regimes of India and China have been known to take tough stances, especially when a transaction affects a core part of their economy or key domestic industry. While M&A activity continues to recover from the global financial crisis, it appears that antitrust and competition enforcers in many countries are placing a priority on merger enforcement, a pattern that is likely to continue for the foreseeable future. Transactions affecting markets that are global in nature may require country-specific issue resolution and additional time before closing.

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from our proven track record of successfully representing clients in complex competition issues arising under federal and state antitrust laws. Our professionals include officials from the ABA Antitrust Section, and former officials of the United States Department of Justice Antitrust Division and the FTC. Our firm is also supported by Georgetown Economic Services, an economic consulting firm.

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