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# Six Foreign Flat-Screen Manufacturers Fined for Price Fixing in the PRC

## Introduction

In January 2013, the National Development and Reform Commission (NDRC) of the People’s Republic of China (PRC) fined six foreign flat-screen manufactures for price-fixing. The NDRC is the agency in charge of price-related non-merger antimonopoly enforcement in China. The amount of the fine totaled RMB 353 million which included RMB 144 million in fines and the repayment of RMB 172 million that Chinese consumers overpaid as a result of the price fixing. The NDRC also ordered the confiscation of the companies’ illegal gains of RMB 36.75 million arising from the pricing fixing. The manufacturers included two Korean firms, Samsung and LG, and four Taiwanese firms, Chimei, Chunghwa Picture Tubes, AU Optronics and HannStar. This is the first time that the NDRC has imposed fines on foreign companies for price fixing. Competition authorities in the US and Europe have previously fined Samsung and LG for the same conduct.

The sanction is the result of an investigation which commenced in 2006. It was alleged that since 2001, the companies had engaged in concerted action by having periodic meetings and had set a higher price for flat-screens as mutually agreed in the meetings. There were 53 meetings in total. It is reported that between 2001 and 2006, supply of components for flat-screens far outpaced demand. The price of flat-screens could have been lower had the manufacturers not acted in concert. During the period, the six manufacturers sold 5.15 million flat-screens to Chinese producers of televisions, mobile phones and computers under manipulated prices.

## Background

The PRC’s Anti-Monopoly Law (AML) which came into effect in August 2008, provides a comprehensive framework for regulating market competition in the PRC. It prohibits, amongst other things, monopoly agreements made between business operators which have the effect of fixing or changing the price of commodities.

Before the introduction of the AML, the pricing of commodities in the PRC was governed by the Pricing Law which contains several antitrust-related provisions, including a prohibition on “colluding with others to manipulate market prices”. It appears that the Pricing Law is still in force in parallel with the AML. Since the monopolistic conduct by the flat-screen manufacturers occurred prior to introduction of the AML, the NDRC imposed sanctions on the manufacturers in accordance with the Pricing Law, instead of the AML. Had the AML been applied, the fine would have been between 1% and 10% of the companies’ annual turnover. The fine imposed by the NDRC was therefore significantly lower than those imposed by its US and European counterparts.

## Conclusion

Until now, Chinese regulators do not appear to have actively pursued international cartels. This may have been due to the limited investigative resources available to regulators. However, this latest enforcement action would suggest that if the interests of local industry and the competitiveness of PRC domestic markets are affected by the actions of cartels, Chinese regulators will be more active in bringing antitrust enforcement.

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