7.5. Antitrust

China takes the topic of market-damaging behavior pretty serious and vertical or horizontal monopoly agreements are being controlled.
Some cases with high profile have been become public, especially in the area of healthcare, but also in other industries you should make sure that you do not violate the antitrust laws.

Monopoly conduct

The following behaviors are deemed as unlawful under the Anti-Monopoly Law:

- Concentration of undertakings with anti-competitive effects
- Monopoly agreements
- Abuse of dominance
- Abuse of administrative power

Horizontal monopoly agreements

The coordination between competing enterprises in general is forbidden when there is a possible impact on the market. This especially includes: Price Fixing, e.g. by:

- Restriction of output or sales volume
- Development restrictions
- Market/customer allocations
- Jointly boycott of transactions

A general exchange of information and engaging in interest groups promoting the industry itself which does not have any impact on the competition in the market is not forbidden.

Vertical monopoly agreements

Vertical monopoly agreements are agreements between the manufacturer or source of goods and their trading partners who link the producer to the end customers.
This kind of agreements mostly happens by:

- Fixed resale prices by the authorized importer or manufacturer
- Fixing a minimum resale price and
- Other measures

The grey line can sometimes be thin: Establishing a recommended retail price is legal while price control and contractual restriction of resale prices is plainly illegal. This might be especially easy to proof if the sales partner has signed a contract which includes punishments for price deviations.
In general it is very risky to coordinate activities to control the price of products for the end customer.

Other stipulations

A company can be seen as dominant if they have significant market share, it can control the sales or raw material procurement market or it fulfills other technical or financial conditions.
Abuse of a dominant position in a market can also be assumed if without justified cause:

- Products are been sold below cost
- Trades with certain parties are being refused
- Different prices for the same good for different customers are being used
- A cooperating party is asked to exclusively deal with their own company

A dominant position can be assumed if:

- One business operator accounts for more than 50% of the total sales in the market
- Two business operators account for more than 2/3 of the total market
- Three business operators account for more than 3/4 of the total market

If a company has less than 10% market share or can prove in other ways that it is not dominant, it shall not count as dominant.

Rules of conduct

Managers who engage in interest groups to promote the industry might be tempted to share information which is out of scope and might reach into monopoly agreements. Be sure that you do not engage in behavior like this and you make it clear in the interest group that this is illegal behavior.
Whenever you are having a conversation with a competitor, be sure not to include any information about quantities, prices, boycotts, product launches, customers, promotions or sales channels. Anything that is related to your own business activities and not to the general market should be avoided.
During conversations with partners in your sales channels, be sure not to set any minimum prices or to implement measures which can influence the minimum price and do not allocate the market for or together with the customers.
If you are unsure if a measure might violate anti-monopoly laws, either refrain from implementation or ensure with a legal expert the probability of law infringement.

8. Sales and Sales Strategy

This chapter will focus on the four classical “Ps” of marketing, meaning:

- Product
- Price
- Promotion
- Place, separated by
    - Physical location of your headquarters and
    - Sales channels.

It should help you identifying some crucial factors of finding the right points to give your product at least a chance in the Chinese market.
The market can be quite unforgiving: You should not expect that you suddenly can create a best-seller without delivering a lot of work on your side. With enough persistence and by using the right adjustments towards the market, you might be able to set off a long-term growth, though.