



PRC Law Newsflash
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BOOK FAIR TRADING RULES REVISED

Introduction

On 30 August 2010, the Book and Periodical Distribution Association of China, the Publishers' Association of China and the China Xinhua Bookstore Association (collectively, the **Associations**) jointly issued an amendment to the *Book Fair Trading Rules (BTR)*, which came into effect on 26 February 2010 (**Amendment**).

The BTR address the pricing of books sold in China, and prohibit dealings with unlicensed suppliers. For our full analysis of the BTR, please [click here](#).

The Amendment made three key changes to the BTR. First, it revoked the BTR's restrictions on the price of books. Press reports indicate that this was likely a result of pressure from the National Development and Reform Commission (**NDRC**, the regulatory authority responsible for pricing controls), which might view the restrictions as a violation of China's *Anti-Monopoly Law (AML)*.

The Amendment also revoked the Associations' right to take the following actions against book distributors and suppliers that violate the BTR:

- demand that violators of the BTR pay compensation to those affected; and
- recommend that other book distributors and suppliers boycott violators of the BTR.

Background

The BTR have been generally regarded as an attempt to protect large, state-owned print media companies such as the Xinhua Bookstore chain from increasing competition - particularly from online retailers. For example, the BTR originally restricted the extent to which distributors could discount the price of books bearing a cover price. This rule was heavily criticized, especially by consumer groups, because it was anticipated to negatively affect competition.

Indeed, most criticism of the BTR focused on their apparent conflict with the AML. Business operators are prohibited under the AML from entering into agreements to fix prices, to boycott other business operators or to collude with other parties, in order to create a monopoly. Opponents of the BTR have argued that restricting the discretion of book distributors and suppliers to set prices was tantamount to a price-fixing

arrangement.

Changes to the BTR

The precise rules which the Amendment removed from the BTR are as follows:

1. Retail Discount Limitation

The retail price of books published within the past year, as set by book distributors, may not be less than 85% of their cover price.

2. Distribution Price Restriction

Suppliers that have purchased books from wholesalers may not sell those books on for less than their wholesale price.

3. Damages for Violation

The Associations may demand members that have violated the BTR to pay damages to the affected companies and consumers, and may recommend that all book suppliers and distributors boycott companies that have violated the BTR.

Commentary

Even though the BTR are not legally binding, members of the Associations are under pressure to adhere to them because the Associations have a close relationship with the General Administration of Press and Publication (**GAPP**, the ministry responsible for the Chinese publishing industry).

As most book sellers and distributors in China are members of the Associations, the price restriction rules under the BTR could have had a significant impact. They would have been particularly detrimental to online retailers, which are heavily dependant on being able to offer low prices. Indeed, the Amendment effectively unwinds the Associations' attempt to use a price-fixing mechanism to protect large, traditional media enterprises against competition from new media companies.

Press reports indicate that the Associations might lobby the State Council to formally exempt the price of publications from the AML's prohibition against price fixing. However, the effectiveness of any such lobbying efforts remains unclear.

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