



Philip Monaghan

Partner

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Philip is a partner in the firm's Brussels and Hong Kong offices. He is also Head of O'Melveny's Asia Antitrust & Competition practice. Philip joined the firm in 2017.

With more than 15 years' experience in the practice of competition law, Philip advises multinational clients on competition issues arising under antitrust laws globally but with a particular focus on EU competition laws and the competition laws of China and Asia generally.

Philip's extensive private practice experience covers the full range of competition law matters including distribution, cartels and leniency, abuse of dominance cases, and merger control. He has advised parties in proceedings before the Court of Justice of the European Union and in investigations conducted by the EU Commission, the OFT, the NMa, the French Autorité de la concurrence, KFTC, JFTC, the Taiwan FTC, China State Administration for Market Regulation (SAMR), the US Department of Justice, the Competition Bureau (Canada), the ACCC and the Competition Commission of South Africa. Philip is a noted expert on China merger control having advised parties on the intricacies of the regime since its introduction in 2008.

From 2014 to 2017, Philip served as the first Executive Director (General Counsel) of the Hong Kong Competition Commission (HKCC). In that capacity, Philip was a member of the HKCC's Executive management team with responsibility for the HKCC Legal Division.

Philip is an English (England and Wales), Irish and Hong Kong-qualified lawyer.

Admissions

Solicitor, Hong Kong
Solicitor, England and Wales
Solicitor, Ireland

Education

King's College London, Postgraduate
Diploma in EU Competition
Law (2004-2005)
College of Law, London,
Postgraduate Diploma in Legal
Practice (2000-2001)
Queen Mary, University of London,
LL.B. (1998-2000)

Experience

Behavioral Competition Law

- Advice to an Asian airline in worldwide cartel investigations and follow-on class actions for damages, including assisting the client in proceedings before the OFT, NMa (Dutch competition authority), the Autorité de la concurrence (France), the EU Commission, KFTC (Korea), JFTC (Japan), the US Department of Justice, the ACCC (Australia), the Competition Bureau (Canada), and in South Africa
- Advice in respect to a marketing alliance for the provision of payment card merchant acquiring services in a number of APAC jurisdictions (Hong Kong, China, Taiwan, Malaysia, India, Singapore)
- Hong Kong competition law advice regarding a joint production arrangement in the construction sector
- Advice to a global nutrition, health, and wellness company regarding RPM practices in China
- Advice for a global medical imaging company in respect of practices concerned with securing access to after markets for the repair of medical equipment
- Advice on exclusive purchasing and quantity restrictions to a global manufacturer active in the health, nutrition, and materials sectors
- Competition compliance advice for a container handling port services provider covering all aspects of the client's business
- Competition compliance advice for a global credit ratings agency covering all aspects of the client's business
- Advice for a global paints, coatings, and specialty chemicals company in respect of a dawn raid response program in China and a competition compliance amnesty program for employees in China, Hong Kong, Vietnam, Malaysia, and Thailand
- Advice for a leading global auctioneer on the enforceability of certain restrictive covenants in a joint venture agreement
- Design and implementation of a competition compliance training program for a global sportswear manufacturer
- Advice on competition compliance measures for a leading European flag carrier airline in the context of a proposed aircraft maintenance repair and overhaul (MRO) joint venture
- Advice for one of the world's largest producers of flat glass on the exchange of competitively sensitive information with affiliated companies in Asia
- Advice to a low cost airline on a complaint for breach of Articles 102 and 106 TFEU (discriminatory airport charges)
- Advice to a global biopharmaceuticals group on distribution arrangements
- Advice to Hong Kong-based clients in various sectors preparing for the introduction of a cross-sector competition law
- Advice for a Board of Airlines Representative on collective bargaining with an airport operator
- Advice for one of the world's largest producers of flat glass on the enforceability of certain ancillary restraints imposed in the context of a joint venture

Merger Control and Transactional Competition Law

- Advice to Unilever on multi-jurisdictional merger control aspects of the sale of its global manufacturing and distribution business of Skippy brand products to Hormel Foods
- Advice to the global consumer packaging company Rexam on China merger control aspects of the sale of its personal care business to Twist Beauty Packaging
- Multi-jurisdictional merger control advice to a global paints, coatings, and specialty chemicals company with respect to the establishment of a China-based joint venture
- China merger control advice to a global producer and marketer of food, agricultural, financial, and industrial products and services with respect to the establishment of a joint venture in the flour and bakery mix sector
- Multi-jurisdictional merger control advice to a trading, logistics, distribution, and retailing conglomerate on the acquisition of a US-based furniture manufacturing business
- China merger control advice to a global asset management company seeking to acquire a primary duck-production business
- Advice to one of the world's largest ship management companies in the context of a multi-jurisdictional merger filing
- China merger control advice for one of the largest China-focused private equity funds
- Advice on merger control under the Chinese Anti-Monopoly Law for a leading equipment manufacturer in the solar sector
- Advice on merger control under the Chinese Anti-Monopoly Law for a private equity consortium on the proposed acquisition of an international specialty pharma company

EU State Aid

- Advice to one of the world's largest ferry operators regarding state aid granted to a competitor affecting transport markets between the UK and Ireland
- Advice on state aid issues for a leading UK bank concerning public service compensation payments to a ferry operator in Scotland
- Advice for European port authorities in relation to start-up incentives for new port infrastructure
- Advice to a European railway company on state aid
- Advice to a European rail infrastructure manager on state aid in the context of certain PPP infrastructure development projects
- Advice to a low-cost carrier in the context of a complaint concerning state aid in the form of preferential airport charges

Corporate & Government Experience

- Executive Director (General Counsel), Competition Commission (Hong Kong) (2014-2017)

Professional Activities

Selected Presentations, Seminars, and Training Workshops

- "Hong Kong Competition Ordinance: law and practice," Lexis-Nexis CPD Course, Hong Kong (2019)

- “The political economy of competition in Asian countries: Why are national competition regimes so different?” Antitrust in Asia: One size fits all? ASEAN, China, Hong-Kong, India. Concurrences Review, ESSEC Asia-Pacific Campus, Singapore (2016)
- “Tools to fight bid-rigging cartels: public procurement screening and training programmes,” ICN Cartel Workshop, Madrid (2016)
- “Dawn raid investigations in Hong Kong – what should businesses expect,” Innoxcell Annual Symposium Hong Kong Series (2016)
- “A changing regulatory landscape – competition law compliance,” *Legal Week* Corporate Counsel Forum, Hong Kong (2016)
- “Hong Kong Competition Ordinance and Anti-Trust Practices,” *Asian Legal Business*, Hong Kong In-House Legal Summit (2016)
- Presentation to Annual Conference of In-House Lawyers, The Law Society of Hong Kong (2016)
- “The Hong Kong Competition Law Rules – A Discussion with the Competition Commission,” Chinese University of Hong Kong and the Hong Kong Competition Association (2015)
- Seminar on Competition Law, Hong Kong Academy of Law (2015)
- “Exercising the Competition Commission’s Exclusions and Exemptions Functions,” Asian Competition Forum, Hong Kong (2015)
- “Defense responses to cartel investigations: the private sector perspective,” KPPU (Indonesian competition authority) Seminar on Cartel Detection and Investigation, Bandung, Indonesia (2012)
- “EU-Korea FTA: Non-tariff and technical barriers to trade; competition, trade remedies and IPR protection,” KOTRA head office, Seoul (2011)
- “Anti-dumping investigations targeting NME countries: Disadvantages for exporters,” industry training workshops organized by the Vietnamese Ministry of Industry and Trade, Hanoi and Ho Chi Minh City (2010)
- “Tailor-made or off-the-peg: Approaches to the design and implementation of competition laws in Asia,” Asian Competition Forum, Hong Kong (2010)
- “A general Hong Kong competition law: Key aspects of the 2010 bill and lessons for other small economies,” 7th AEGC (ASEAN Experts Group on Competition) Capacity Building Workshop, Brunei (2010)
- “The extraterritorial application of competition laws, cooperation agreements and the UN Set on competition,” UNCTAD (United Nations Conference on Trade and Development), Geneva (2010)
- “Horizontal agreements, collusion and cartels,” 4th AEGC (ASEAN Experts Group on Competition) Capacity Building Workshop, Langkawi, Malaysia (2009)

Selected Publications

- “Hong Kong’s New Competition Regime,” Rose Webb, Timothy Lear, Philip Monaghan, Derek Ritzmann, *Competition Policy International* (September 30, 2015)
- “Cartel Enforcement Comes of Age in China: The National Development and Reform Commission’s LCD Panels Decision,” *Competition Policy International* (February 26, 2013)
- “China: Anti-Monopoly Law,” *The Asia-Pacific Antitrust Review 2013, Global Competition Review* (2013)

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- “Non-competition Policy Considerations in Merger Control: A Growing Trend?” *Getting the Deal Through: Merger Control 2012, Global Competition Review, 2012*, co-author
 - “China: Draft Merger Control Rules Published,” *BNA International, Asia-Pacific Focus* (2011)
 - “MOFCOM Conditionally Approves Uralkalis/Silvinit; MOFCOM Issues Draft Merger Competitive Assessment Provisions”; “MOFCOM Issues Draft Rules for the Investigation of Mergers not Notified,” *PLC Competition Law Multi-jurisdictional Monthly* (2011)

Memberships

- Law Society of England and Wales
- Law Society of Ireland
- Law Society of Hong Kong
- Member of the Competition Law Committee, Law Society of Hong Kong
- American Bar Association, Section of Antitrust Law
- Irish Society of European Law