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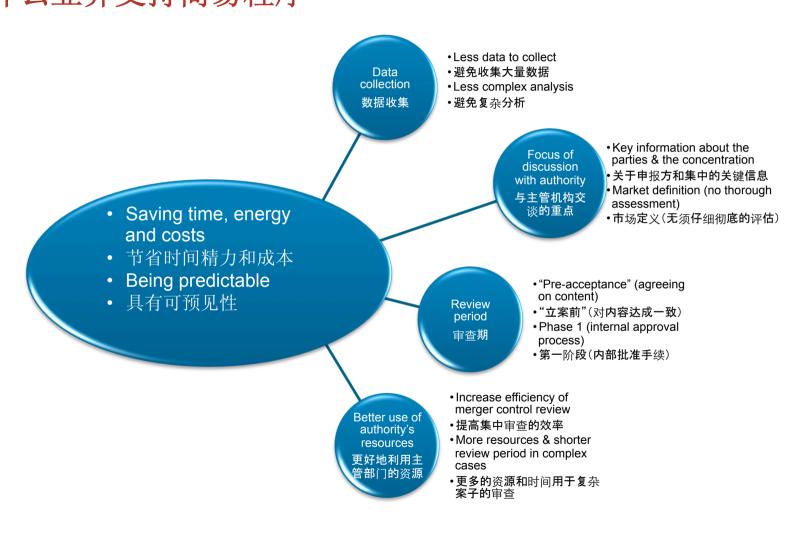
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Sino-EU Workshop on Merger Review 中欧反垄断研讨会
Simplified Procedure
简易程序

Some thoughts from a practitioner on Procedure 从业者角度的一些想法

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## Why does the business community support a simplified procedure? 为什么业界支持简易程序



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### Why does a simplified procedure mean? 为什么工商业界需要简易程序?



- Criteria for Simplified Procedure must be:
- 简易程序的标准:
  - crystal clear (otherwise too much risk)清楚明了(否则太多风险)
  - objective, justifying the use of a simplified procedure (market shares, HHI)客观, 说明为何应适用简易程序(市场份额, HHI)
  - predetermined in implementing measures 在执行措施中提前规定
- Data to be provided must be: 需提交的数据:
  - clearly identified清楚的界定
  - limited and proportional to what is necessary for an efficient AML analysis (basic information on parties and concentration, market definition, market shares)有限及一定比例的对开展有效反垄断分析必要的数据(申报方集中的基本信息、市场界定、市场份额)
  - consider granting waivers for other sections of the form 考虑免去申报表中的其他部分
  - predetermined in implementing measures (clear sample form)在 执行措施中提前规定(清楚的范表)
- Review **period** must be:审查期应当:
  - shorter surely not longer than Phase 1 (considering shortening pre-acceptance period)更短-不能长于阶段1
  - predetermined in implementing measures在执行措施中提前规定

- Business Community should not:企业界不应当:
- refuse to answer the authority's questions拒绝回答主管部门的问题
- expect that the authority will not "test" the parties' claim for a simplified procedure or could not reject it期望主管部门不会"测试"申报方申请适用简易程序的主张或期望主管部门不会拒绝该主张
- decrease the level of cooperation as they would do in a normal proceeding较正常程序来说减少合作的程度
- The **authority** may want to avoid:主管部门应当避免:
- treating the pre-acceptance period as a purely administrative step (must resources for market analysis)把立案前商谈作为单纯的行政步骤来对待(应当为市场分析提供帮助)
- unduly challenging the parties' claims\*不适当地质疑申报方的"主张"\*
- asking questions that would eventually require the same burden as in a normal proceeding\*提出某些问题, 该问题将最终使申报方承担和正常程序一样的负担\*
- meeting with parties unless the authority considers that the case does not qualified for a simplified procedure与申报方开会除非主管部门认为该案不适用简易程序
- changing its position after Phase 1 initiation (unless false or misleading information has been submitted)在正式立案后改变决定(除非提交了虚假或引人误解的信息)
- letting external interference derail the process\*外界的干扰妨碍审查程序
- \* unless based on genuine suspicions (to be disclosed with the parties)除非基于向申报方披露的真实怀疑

#### Some suggestions from a practitioner 从业者的一些建议



# Questions? 问题

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