

POLITICAL ENFORCEMENT OF ANTITRUST REGULATION IN THE EUROPE: GOOGLE ANTITRUST SEARCH CASE (2010-2017)

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ABSTRACT

The trade liberalization and globalization, supported by the development of technology and information, has changed the global economy into more open and outward. In the midst of that, the increasing power of MNC has shifted the pattern of the global economy, thus making the competition more lively than ever. However, the growing market power of MNC makes them tend dominance. The absence of international investment regime to control the behavior of MNC become one of the primary concern. It depends on competition regime of each country to suppressed the dominance tendency of MNC.

Google Antitrust Search case is one of the cases in which the business conduct of MNC has infringed the antitrust regulation in which promoting the consumer welfare and strive to protect competition. This thesis will try to analyze on how Google, Inc., has breached the antitrust regulation -which is a part of competition regime- of European Union, and explain on why EU decide to enforce antitrust regulation on Google, Inc.

Keywords: Competition, Antitrust, MNC, European Union, Search Engine

Introduction

After World War II, the world has been facing a global transition as the interdependence among states grew. Trade liberalization has a prominent role in the globalization phenomena, but since the 1980s, FDI becomes another factor, or

rather, a more critical factor than trade as the power that urges the growth of interdependence (Cohn, 2008).

A study by Global Justice Now, discovered that from the top 100 economic entities, the number of businesses included in the global economic activities increased from 63 in 2014, to 69 in 2015 (Inman, 2016). By 2015, the corporations have the dominant position among the top 100 economic powers in the world. From 69 seats out of the 100 are placed by big companies from all over the world, i.e., Walmart, Royal Dutch Shell, Exxon Mobil, Volkswagen, Toyota Motor, Apple (Green, 2016). It verified the increasing power of corporation in the global economy.

The integration process of the European Community goes way back since the establishment of European Economic Community in 1958, and the process did not stop even after the foundation of European Union. Within that integration process, competition policy considered as crucial part. This competition policy has the deep relation with the private firms, or by government action. The disturbance in competition may weaken the integration process. To prevent such development, EU competition policy that covers (Nello, 2005) :

- Antitrust measures, mainly regulating against cartels and obstructive practices, also against monopoly/dominant position;
- Mergers;
- State aids and regulated industries.

What will be studied in this research is about the Antitrust measures. The term is related to a set of regulations to protect a business from monopolies or biased business practices (Meriam-Webster, 2017). The specification of Antitrust

regulation is written in the EU's general Antitrust regulation Articles 101 and 102, stated in the Treaty on the Functioning of the European Union (TFEU) (Slaughter and May, 2016).

The root of Google Antitrust case is already starting since 2006, but the investigation by European Commission (EC) did not begin until 2010. It is the result of Google, Inc's business activity that deemed as "twisting" the competition with the competing companies and deprived the consumers' choice for good and services (Kanter, Europe Fines Intel \$1.45 Billion in Antitrust Case, 2009). Margrethe Vestager, the antitrust official, the one responsible for the case settlement, doing an investigation of Google, Inc because many claimants accused Google, Inc as abusing its power, and disrupting the competition in Europe (Kanter & Scott, E.U. says Google Abused its Power, 2015)

The Growing Importance of Investment

Since the 1980s, Foreign Direct Investment (FDI) flows have increased significantly at a fast pace. Trade and investment relationships develop in a way that enables both to become much more integrated into a worldwide level. The development of technology and communication at a global level led to dramatic change in international trade. By this, for example, the amount of business that happens in the form of the transfer of goods at various stage of production so that products can be a result of another product from multiple states in the world (Held, 2000). For example, the design for Ford's Lyman car came from Germany, but the components used is the result of other states' production, like the gearing system from Korea, pump from the U.S, and engine from Australia (Shangquan, 2000).

The new growing importance of FDI had to change the investment into something more independent. Previously, investment is a part of a production, one of the principal elements of the global economy, along with trade, finance, and labor. But political economists now examine FDI separately, as investment overseas has upsurged intensely over several decades. The presence of MNCs is crucial in this process (McGrew, 2005).

Multinational Corporations, (MNCs) assumed as the leading actor of economic globalization. The way they manage the existing product and resources with the purpose of profit maximization and their global expansion have reshaped the operation of world economies. The transborder economic activities by MNCs become a challenge for traditional international trade and investment theories. The independent business activity of MNCs is indirectly restructuring and readjust global industry. With the advancement of IT, the industry activity of many countries have been upgraded, and it gradually gave birth to a more competitive international market among enterprises, giving economic globalization a push forward (Shangquan, 2000).

The Needs for International Investment Regime

Bonnitcha, Poulsen, & Waibel (2017) argued that there are many discussion regarding trade, finance, production treaties and agreement, but the debate about investment treaties and cooperation did not begin until recent years. Unlike the international trade regime, which has a long history and close relation with political scientist and economist, the comprehension of investment treaty regime processed in a rather slow manner.

Most investment treaties are bilateral and mostly only deal with investment protection. Though, some of them involve more than two parties and issues, such as North American Free Trade Agreement (NAFTA). In latest years, the investment treaty regime started to move toward multi-issue and pluralism agreements. It enables two or more parties to address multiple issues at the same time. For example, there are many arrangements to take a comprehensive protection measure against investor. It discussed by several countries at once within Trans-Pacific Partnership (TPP), or Regional Comprehensive Economic Partnership (RCEP). There is also discussion of an investment treaty between two supranational actors like the U.S and EU within the negotiation of Transatlantic Trade and Investment Partnership (TTIP) (Bonnitcha, Poulsen, & Waibel, 2017).

Despite that, there are difference between treaty regime and international trade regime. Unlike international trade regime with WTO as its leading organization, the investment treaty did not have international organization who can monitor the activity of the member parties. It decided upon by the participants, and it depends heavily on the observation from another participant to ensure the correct implementation of agreed rule and regulation. So, in the case, if one of the countries violate the agreement, it is hard to put a penalty on it, as there are no reliable institution to enforce that. The absence of institution not only caused difficulty in dispute settlement but also makes it seem fragile and unstable. But even so, these facts did not conclude that the investment cannot be governed in the future. It is just with the situation right now, international investment regime may need some time before it can be formally established.

European Union Antitrust Instruments

European Commission (2014) stated that antitrust regulation developed from two fundamental rules set out in the Treaty on the Functioning of the EU (TFEU), which established since the Treaty of Rome, in 1958. It is the fundamental rules that fight against anti-competitive practices or abuse of dominant position :

1. Article 101 of the Treaty. It is forbidden for two or more independent market operators to form a deal that may hamper competition. The specification covers both horizontal agreement (between firms on the same level, putting aside if it is between actual or potential competitors), and vertical agreement (between firms running on different levels). The most basic violation of Article 101 is the formation of a cartel between firms.
2. Article 102 of the Treaty. It is forbidden for a firm who possess dominant position/more power in the market to misuse that position. For example, market exploitation by charging unfair prices or restricting production.

The primary purpose of these articles in TFEU is not only aimed to protect EU market from any business practice that may restrict competition. However, on a bigger picture, it sought to create a Single Market, where the flow of goods and trade can happen smoothly without restriction. These articles reinforced by a framework of secondary legislation, notices, and policy statements. The Directorate General for Competition of the European Commission (DG Competition) will enforce the law, while EU Courts provide the procedure request (Harrison &

Bunker, 2011). Article 101 and 102 underlined what is allowed and prohibited in EU antitrust policy.

While EU has Article 101 and 102 to conduct antitrust measure and combat against cartels and restrictive practices, it also needs rules regarding on how to implement the enforcement procedures. These situations regulated under the Regulation 1/2003. It replaced Regulation 17/1962, and change the way of EU in term of how to enforce the competition law. Regulation No. 1/2003 is the 'modernized' regulation that started to become effective since 1 May 2004 (Slaughter & May, 2006). Regulation 1/2003 is the pivotal turn on EU competition law enforcement, as it significantly changed the way of enforcement into a more modern method, which is recognizing the flaws on previous regulation and turning into a more liberalized approach. 17/62 Regulation is a regulation ratified by the Councils of Ministers on 6 February 1962. It was the regulation that implemented Article 81 and 82 of TEC (Heide, 2005).

According to Slaughter and May (2006), the most significant change that Regulation 1/2003 bring is the increased power of Commission in investigating infringement. The aim is to decentralizing the investigative power to national authorities so that Commission can dedicate their entire focus on the 'hard-core' EU competition law infringement, including cartels and monopolies. It enables the national authorities to take part in the infringement investigation within their territories. After Regulation 1/2003 enacted, the investigations become increasingly active, especially in international cartels. The Commission cooperating with competition authorities in few countries such as the US, and also with national competition authorities (NCA), including the confidential information exchange.

Under Regulation 1/2003, the European Commission and NCA have established a European Competition Network (ECN). It introduced a new enforcement procedure that becomes a benchmark for future EU competition policy.

Google Antitrust Search Case in Chronological Order

Adam Raff and Shivaun Raff (2017), the Co-founders of Foundem and SearchNeutrality.org noted that the case started when UK's vertical search engine and price comparison service, Foundem, issued the case of network monopoly done by Google, Inc in November 2009. After several times trying to reach a dialogue with Google, Inc via e-mail, but to no avail, Foundem submitted the formal Competition Complaint under Article 102 about Google's abuse of dominant position toward European Commission, demanded an open investigation. The Complaint contains the explanation on how the Titan-sized search engine Google, has committed anti-competitive business practices by using its overwhelmingly dominant search engine to promote Google's products and services.

The Commission formally opened the investigation on 30 November 2010 (Case COMP/C-3/39.740 – Google versus Foundem and others) (Raff & Raff, 2017). On 21 May 2012, Commissioner Antitrust Chief, as well as Vice President of European Commission in charge of Competition Policy, Joaquin Almunia (2012) announced that the Commission had been executed a large scale market investigation due to the increasing amount of complainants toward Google anti-competitive practices. It produces a provisional evaluation in which under Article 9 of Regulation 1/2003, Google had abused its dominant position. Almunia further stated that the Commission would give Google a chance to propose a

solution/remedies regarding the four main concerns identified, which are : (1) In its general search results, Google shows different manner regarding how it promotes their vertical search services and those of competitors. Like for example, putting their sites in the top result while putting those of competitors in the lower result, despite sometimes the sites may being inferior to the competitors; (2) Google has been copying the original data from competitors' websites on its own without prior authorization. Google's act has indirectly decrease competitors motivation to invest in the original websites, for the internet users will mostly depend on bigger or more popular sites; (3) Google has made an agreement with co-ed websites in which Google provides search advertisements. The concern is that the agreement may demand them to get the requirements of search advertisements from Google. The agreement become exclusive and at the same time closing the chance of the other search advertising mediation services; (4) Google has been putting a restriction on the portability of search advertising campaigns from its platform AdWords to those of competitors. It will become more beneficial if the search advertising campaign can be connected through AdWords and other platforms, but if Google is putting a restriction on software developers who can offer a tool to make it happen, then it will become alarming.

On 21 May 2013, Foundem submitted a formal response regarding the proposal to the Commission. It gave disapproving answer against Google proposal, specified it as “...*would not only grant Google the right to profit from any traffic it sends to rivals.*” Foundem expressed the horror it feels toward the proposal by further stated that the proposal of Google has no intention to address the concern of search manipulation, but instead making it worse by changing its system for sites

placement from relevance-based into payment based. It naturally will make the competitors' race for the highest bidding, and thus not only exert the payment to the maximum but also means Google will seize the vast majority of the competitors' profit (Raff & Raff, 2017). It will leave the competitors' in such disadvantageous marketplace, and the revenue of Google will sky-rocketing after this.

After analyzing the incoming response, Commissioner Almunia declared that the proposal is not good enough and demanded Google to improve their proposal. On 21 October 2013, Google submitted their second proposal. But again, the proposal was rejected due to the content which is not so different from the previous one. The third set proposal was submitted on 31 January 2014, and after some consideration, Almunia planned to accept it. Even though there are many complainants demanded Almunia re-think his decision, saying that the third proposal remains unchanged except for few minor details from the second one. Almunia later announced on 5 February 2014 that he had accepted Google's third proposals, and the implementation will be conducted without Market Test or further consultation. But of course, the complainant's response will be considered as the part of the procedure (Raff & Raff, 2017).

Due to the pressure and numerous feedback from the variety of parties, on 23 September 2014, Commissioner Almunia formally declined Google's third set of proposals. Soon after that, Almunia ended his mandate as Competition Commissioner. His position replaced by Margrethe Vestager. She officially began her five-year mandate on 1 November 2014, and her first job is finishing what her predecessor left off (Raff & Raff, 2017).

On 15 April 2015, the EC officially accused Google with abuse of its dominant position. They sent Google a Statement of Objection (SO)¹ which focused on four main concerns that have been announced before. It prioritizes the search manipulation case raised firstly by Foundem. Complainants are welcomed to give their feedback, and Google had given ten weeks to respond (Raff & Raff, 2017).

Adam Raff and Shivaun Raff (2017) noted that the Commission passed a Prohibition Decision (guilty verdict) in the Google search case on June 2017. It specified by European Commission (2018) in Summary of Commission Decision of 27 June 2017 :

“The fine imposed on Alphabet, Inc. and Google, Inc. for the abusive conduct is calculated on the basis of the principles laid out in the 2006 Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation (EC) No. 1/2003. The decision concludes that the final amount of the fine imposed on Alphabet, Inc. and Google, Inc. is EUR 2 424 495 000.”

The Antitrust fine against Google is the biggest antitrust fine EU ever imposed on a company since Intel antitrust case in 2009, with the total amount of fine € 1.06 billion. The Commission announced that Google has 90 days to remedy the system that favor its products and services while marginalized those of competitors'. If not, the EU will give further penalty up to 5 percent of Alphabet's average daily global income per day (Chee, 2017).

¹ SO is an obligation of the Commission in which the result from the addresser's right of defense. This right empowers them with the opportunity to make their claim to be known and understood. The SO is an important part of competition case proceeding, as the content of the SO will become the main source of Commission's decision, even if it is a negative one. Read more: European Commission. (2002). Glossary of term used in competition policy. Brussels : European Community

Google as a Political Actor

The Google Antitrust Case precisely shows the involvement of MNC not only in the business network but politic as well. The seven years case settlement did include several parties to solve it, not only from the involved parties such as Google, Inc and European Commission, but also third parties such as national government officials, European Parliament and other EU's organizational bodies, even businessman, and regulators. Every party allowed to exercise its influence toward each other by the existing rules and regulations. The enforcement of EU laws, in this case, is highly political as it calls for many political actors to solve it. It also uses diplomacy as the means of settlement. It proved how the business activity could easily influence or influenced by politics. Just like Ramon Tremosa and Andreas Schwab stated about the case: that the Google Antitrust Search Case will have a significant impact on economy and politics. It is true because the anti-competitive business practice conducted by Google which hampering the competition happened in a politic environment. Any business which occurs under government's or institutional bodies' area of supervision cannot avoid its involvement with politics. It will be difficult to use an economic approach solely alone to solve the issue, due to its involvement with the bureaucratic body which regulates not only the economy but also politics. It will be worse if the 'defendant' of the case is multinational actors who operated globally and under many countries' jurisdiction. Thus, Google must comply with rule and regulation applied by European Union, as Google operates under EU jurisdiction, despite being an American company. While many kinds of literature are deliberating on how state-less MNC's business activities are, it held its independence, visions, and goals as

strong as a state can. It means that MNC, or Google, in this case, exercise its power on its way to deliberate about the case in equal standing with EU. Both are neither superior nor inferior in comparison to each other.

The Reasons for Long Settlement

As multinational actors, Google adapt well to its surrounding. It does not defy the regulations directly, but it does insidious business practices which makes its competitors' insecure and feel threatened. The writer assumed this as one of the reasons why the law settlement took so long: because there are no solid parameters on how far a business practice can be considered as 'dominance' (not to mention in the virtual landscape such as search engine). High market share does not necessarily means dominance. Of course, market share is the first you look at when you want to justify market structure and market power, but it does not mean the result can become the definite proof of market power or dominance. Google held 90 percent of market share in the world; it equally means two things: it is suggestive evidence of market power and dominance, as the result of competitive restraint from competitors' or Google has the best products and traffic that attract most of the consumers (Wagner-von Papp, 2015).

The connotation is suggesting the second reason for the prolonged Google Antitrust case settlement: the proceeding needs to be extra careful to avoid over-enforcement and under-enforcement at the same time. The multinational corporation operates in different countries, so it is easy to assume that they are swimming under a diverse set of regulations, in which obliged to comply. The diversity of anti-trust focuses, preferences, and enforcement in the world makes it

unavoidable for Google's business practice to be contemplated by multi enforcers, not only European Commission. With the absence of general parameters for anti-trust enforcement, it is up to host-nation to implement their respective competition regime against anti-competitive business practices (Wagner-von Papp, 2015)..

The third reason for the long settlement is the lobbying power. Wall Street Journal published that Johanna Shelton, one of the top lobbyist in Google has had more than 60 meetings at the White House during FTC investigations. By the end of November 2012, according to FTC's internal emails, it had decided not to file an antitrust lawsuit against Google. It also points out Google's spending on lobbying operation. In 2013, Google spent USD 16.8 million on lobbyists more than other company (Mullins, 2015). From the facts above, we can safely assume that the FTC decided not to go forward with the antitrust lawsuit is not immune from the influence of Google's lobbying effort to fight off allegation. While it is not as much expenditure as in the U.S, Google also one of the big lobbying spender in EU.

Since 2014 until October 2017, amongst all U.S tech companies in Europe, Google expenditure on the lobby is only second to Microsoft, with Google spent €4.25 million, just a little less from Microsoft with €4.5 million. Google also has the most meetings with European Commission with 153, exceeding Microsoft with 84 meetings (Armstrong, 2017). The data suggests that Google had sufficient access and influence with the Commission. From the amount of lobbying expenditure and meetings, it means that Google has numerous issues in which requires the effort of lobbying, and antitrust case against it certainly one of them. The purpose is clear : to avoid further fine punishment. But with the Commission passed guilty verdict against Google in 2017, it is clear that the lobbying effort of Google in EU may not

go as smooth as it did with the U.S. Lobbies is common occurrence when doing business within a country, but the effect may differ in accordance with policies and regulations applied in respective countries. For example in this case, different with FTC which decided not to pursue the antitrust case in 2013, EU decided to fine Google for antitrust infringement. While the lobbies may not working as well as it did with FTC, the writer thought that the lobbies succeeded in putting considerable influence and pressure within the Commission, which consequently makes the case extended to seven years long.

The Significance of Antitrust Regulation in this Case

As stated by McGrew (2005), that globalization often associated with liberalizations concept. The similarity between both concept is that they are encouraging the process of global integration. He also defined economic globalization as the process of single, global economy, and even the transformation process of organizations that regulate the world economy. One of the crucial leading actor in this modern world is MNC, and with the evolvement of technology and communication, the market competition becomes more lively than ever. Trade liberalization, the development of IT, and the unpredictable actions of MNC, these factors is sufficient reason for a country to become more careful with their economic strategy and more aware with the 'hole' in their legislation. In this context, the EU tries to accommodate the global changes and adapting its regime to the change, while 'stylizing' it in the way that fit with EU's goal and methods.

Unfortunately, the EU's competition regime is still inadequate in many aspects. Such as how the case proceeding takes too long, it cost a high amount of

public resources, and it cannot deliver consistent standard across its jurisdiction and similar cases, so it failed to instruct firms (the less-competitive one) on what is the best practice to do (Calciano, 2009). This is also the applied to Google Antitrust Search case. The proceeding takes seven years, it took many efforts from various parties to conduct the investigation and to reach decision, also the Commission end the case with fine penalty and subtle threat for future infringement, but did not inform specifically on what practices and to what extent, it allowed to do without limiting the choices for consumer and stay in 'competitive' zone. This may confuse the firms on how to behave competitively in the market.

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From the explanation above, it is understandable that the competition regime of EU is still inadequate in some aspects, but if we consider the achievement of EU through competition cases they tackle until now, it is safe to conclude that the regime is continuously evolving to answer the future challenges and obstacles. As smooth as MNC is, EU standing firm with its competition regime. The Google Antitrust Search case is one of the successful competition case that EU tackled. Another successful case is Microsoft antitrust case in 2001 or Intel antitrust case in 2009.

Eric K. Clemons, a Wharton professor of operations and information management, stated that EU has always been less generous on monopolies than the U.S. The decision to impose fine on Google not only driven by numerous Competition Complaint submitted to the Commission but also because it disturbing the consumer welfare. As Vestager claimed, that EU aimed to establish the future principle which applies fair-play rules, not to alter Google algorithms (Wharton, 2015). There are also some accusations regarding how EU's decision motivated by protectionism of European against U.S tech company. It is undoubtedly unfounded as most of the complainants come from not only European firms but also U.S firms, such as Amazon, eBay, Microsoft, Expedia, TripAdvisor, Yahoo!, etc. It proved that the U.S firms try to count on EU competition regime, which have less tolerance toward dominant firms, as a tool to gain competitive advantage (Wagner-von Papp, 2015). Just like Vestager's statement, the main motivation for fines penalty on Google is not that complicated. Although maybe some changes need to be adopted to reach the fair market, the main intention for the penalty is neither to change Google nor because it is a protectionist act against U.S tech company but to lay down the neutrality-based principle for establishing a fair and competitive market, and ensuring the consumer welfare.

The Real Impact of Google Fines Penalty

Google, which operates under the parent company Alphabet, Inc is given 90 days to propose a remedy that can change its anti-competitive practice. The EU offer Google time until 28 September to think about it. On 27 September 2017, Google announced some concessions. In their announcement, Google stated that

they would give the equal amount of chance for competitors to bid for ad space at the top results page. Furthermore, Google Shopping will also operate as a separate business, participating in the auction for a place in the top results just like the competitors. In other words, with this everyone will have the same chance in promoting their products and services. The European Commission noted that they still considering the Google's announcement, and the issue will continue for some time. The Commission also said that they will monitor Google's behavior now that they announce their decision. Google is demanded to submit a report every four months to inform the Commission about their action in compliance with the decision (Kharpal & Amaro, 2017).

The real impact of the penalty against Google is neither about the amount of money they need to pay nor because they are forced to change its shopping listings. The big issue actually about how the Google antitrust case against EU has opened the door to more lawsuits. It may be useful news for competitors as now they can sue Google in European civil court, and possibly other companies as well (Finley, 2017). The case settlement evidently craved a new step for competition regime. The MNC's business practice may need to be more careful if they want to operate in EU's jurisdiction after this.

Barry Lynn, the head of the New America Foundation's Open Markets program gave his opinion regarding the dominance of internet companies and stated that from the public point of view, maybe it makes sense for any kinds of activity to ends up in one platform, for example in Google. The problem is not that, but instead about the neutrality of the platform. It cannot be regulated by a private actor for their interest, instead of the public interest. Just like Google in this case

(Brandom, 2017). It is important to remember that internet is a free virtual space in which people can come and go as they please. It is open for everyone to use, but if by some chances there are people who 'close' the internet to fulfill their interest, it will be monopolizer of the internet (Brandom, 2017).

The case continue despite fines already being imposed on Google. What EU seeks is the neutrality-based market environment in which the competition can function properly without any discrimination. The antitrust enforcement against Google is an act that needs to be appreciated. It would not only give pressure to the so-called 'monopolizers' of the internet but also can become a warning for other emerging companies to take extra precaution when they operate in EU jurisdiction. It makes super large corporations less threatening, and most of it is returning the market to its right function: in the consumer's hand.

Conclusion

Google Antitrust Search Case is the example of EU's antitrust regulation infringement. It was first issued by U.K's vertical search companies, Foundem in 2009, which reported that Google had breached the antitrust regulation under Article 102 TFEU. It claimed that Google is abusing its dominant position by promoting its products and services in its search engine while putting those of competitors' on the more lower result. Normal internet users tend to click the most top result, so if the top result mostly consists of Google's products and services, despite it may be inferior to those of competitors, then something is going wrong.

It is important to define the behavior of MNC as 'irregular' due to its nature to adapt and manipulate the regulation where they operate by their interest.

Competition regime, play a vital role in suppressing MNC behavior and tendency for dominance. Another point is that due to the environment in which MNC operates is highly political; there is a possibility for economic activity to be politicized and involve several political actors. So it is safe to assume that Google, in this case, is not only playing a role as an economic actor, but also a political actor.

During the whole case proceeding, EU used its competition regime as the primary tool to solve the case and guideline. Despite several weaknesses that the regime possessed it is apparent that the competition regime proved its effectiveness by suppressing the dominance of Google, and imposed fines penalty on them. While the amount of fines is not the main concern of Google, it still gives them cold sweat that now their loss, in this case, will provide an opportunity for more lawsuit in the future.

The Commission confidently stated that the main motive for fines penalty on Google is neither to change the Google nor because it is a protectionist act against U.S tech company, but rather because EU tries to lay down the neutrality-based principle for establishing a fair and competitive market. The sole reason is still to protect consumer welfare and to protect competition. Rather than ending the case with fines penalty, EU seeks long-term benefit by attempting to tackle future cases with a stronger competition regime. It is important, as it will give threat and prevent other large corporations from trying anything that may disturb consumer welfare and competition.

Trade liberalization and globalization changed the global economy to be more open and outward and protectionism idea is become outdated. But it is important to keep competitiveness in the market if one wants to protect the right

functioning of the market. The consumer welfare is the primary criteria for a case to be called as antitrust infringement, and the business activity of Google conduct a discrimination element toward other competing companies and thus limiting the consumer choice, that is why it considered as an antitrust infringement. Specifically against Article 102 TFEU in which prohibits the abuse of dominant position.

It depends on the competition regime of each country to suppress the dominance of MNC. Just like what EU does with Google in this case. It is still early to consider the competition regime of EU as perfect just because it successfully tackle several 'hardcore' antitrust case such as Microsoft antitrust case in 2001, Intel antitrust case in 2009, or Google Antitrust Search case. In fact, Google Antitrust Search case will still be on top of Commission's desk for some time, due to its necessity to be constantly monitored. But, the effort of EU, in this case, deserve to be applauded, as it will give pressure for other large corporations or the competing companies to be more careful with their business activity. The case indirectly improved the efficiency and effectiveness level of competition regime in EU's jurisdiction. It will become harder for MNC to operate as freely as they are before, now that EU takes a more assertive stance against anti-monopolies, and this is not very good news for MNC in the future.

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