

CHAPTER I

INTRODUCTION

A. Background

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.

Following the Treaty of Maastricht (1993), officially called the Treaty on European Union, the integration of the European countries reach its peak and established what we know as the European Union nowadays. One of the most integrated parts of the world, an environment in which build a closer unification among the "peoples of Europe" (European Central Bank, 2017). 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. It still happening up until now, as the continuous effort to unite the "peoples of Europe" (Nello, 2005).

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 purpose of the policy is to ensure the stability of competition, and to prevent the possibility of monopoly or dominant behavior of one particular actor (Nello, 2005).

One of the most beneficial thing about integration is the cost and price reduction since the primary objective of the European Union at first is to make economic cooperation with other European countries. Let's say there is one dominant actor in the economic cooperation and cause disruption in the competition; it will hinder the integration process, and undoubtedly will thwart the initial plan to reduce the cost and price. That is why competition policy is essential. 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. The law-settlement process occurred until June 2017. 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)

This research mainly will try to analyze about the enforcement of Antitrust regulation in the case of Google Antitrust. It will also include the explanation about how the regulation emerged and analysis on the regulation as part of competition regime.

B. Research Questions

From the problem's background above, the research question for this study will be: *In the midst of global economic liberalization, why the EU enforced the Antitrust regulation against Google, Inc.*

C. Theoretical Framework

To analyze the problem that already described above, it needs a compatible theoretical framework. The explanation for the problem will be delivered systematically and by the data.

Two kinds of theoretical frameworks will be used in this research.

1. The International Regime Theory

Robert Keohane described regime as an institution equipped with explicit rules and consented by the governments, which connected with many issues in international relations. According to Stephen Krasner, an international regime is the set of implicit or explicit norms, principles, rules, and decision-making procedures, which congregate in some area of international relations (Hasenclever, Mayer, & Rittberger, 1997).

The variation of norms become the guideline for regime members' behavior. From the shaped behavior, the regime members can construct collective outcomes that can be accepted by every member. The decision-making process also has to be of the shared goals and belief of the regime itself (Hasenclever, Mayer, & Rittberger, 1997)

International regime theory suggests that different actors can have an alliance as long as they shared the same goal and principles. These actors are including states, MNC, and international organization. Under the similar circumstances and understanding, international regime becomes their guideline which later will shape their behavior, to fulfill their desired outcome (Verbeek, 2011).

With this theory, the writer will try to explain what is the Antitrust regulation that implemented by the EU. The EU consists of member countries, and its regulation served as the guideline for every member. How Antitrust regulation become the "explicit rules" as Krasner

mentioned, and how it functions as the regulation that keeps competition alive.

2. Institutionalization Theory

Mats Forsgren, in his book the *Theories of the Multinational Firm*, explain about Institutionalization Theory. This theory emphasizes on how a business is not only limited to the business networks, but also politics. Because the environment in which the MNC operates is highly political, therefore it is compulsory for MNC to comply with rule and regulations applied by international organizations/institution. That is why the multinational firm could be considered not only as the economic actor, but also a political actor, who has the power to exercise their influence and act accordingly with the enforced rule and regulation (Forsgren, 2008).

This theory sees the firm as a whole, one-body existence, and identifies the relationship between the firm and the environment. It does not suggest that MNC as a superior or inferior compared to the state's power. It implies that MNC has the ability and tendency to 'adapt' to its surrounding. By 'adapting' it means that MNC restrained continuously by the international organizations/institution, or national government in one country, but it also inclusive to the option of MNC acted as a manipulative actor to fulfill its corporate interests (Forsgren, 2008).

With this theory, the writer would like to analyze about the manipulative and adaptive side of the MNC. Just like the effort of Google, Inc in trying to solve the Antitrust case with lesser risk for them.

D. Hypothesis

The hypothesis for this research which will provide the provisional answer to the research question: why the EU enforced the Antitrust regulation against Google, Inc. in the midst of global economic liberalization, are as follows :

1. Trade liberalization is promoting more open and outward economies. As the investment is growing stronger, the competitiveness in market is also increasing. While the absence of international investment regime is making it harder to control MNCs, trade policies and competition policies of a country can change FDI incentives.
2. The business activity of Google, Inc. is a form of infringement toward Antitrust regulation, as stated in the EU's Treaty on the Functioning of the European Union Article 101 and 102, which strive to protect the competition within the EU.

E. Research Method

To do this research, the writer will implement Qualitative research method. The purpose of Qualitative research is to gain better understanding and to draw a conclusion regarding to some problems or phenomena. Its method generally use words-generated material (i.e. books, journals, verbal or textual scientific explanation by experts, internet sources, etc.) as the source of data for analysis, rather than numerical data. (Brikci & Green, 2007)

According to Mack, Woodsong, MacQueen, Guest, and Namey (2005) in their book *Qualitative Research Methods: A Data Collector's Field Guide*, the Qualitative research method consists of examination that :

- Seeks answers to certain question;
- To answer the question, it systematically uses a set of procedures that defined beforehand;
- Collects evidence to prove the cause of problem;
- Produces results that were not determined in advance;
- Produces results that pertinent outside the immediate scope of research.

With this method, the writer will try to analyze the political enforcement of Antitrust policies and regulations as the effort of EU to prevent anti-competitive conduct to happen. From various source/data, the writer will attempt to conclude whether the enforcement of Antitrust policies and regulations of EU is adequate to keep the competition alive, especially against the dominating tendency of MNC.

F. Objective of Research

The main objective of this research is to analyze the Antitrust regulation as EU's tool to regulate the dominating tendency of MNC. It portrays the writer's interest in unraveling the struggle of a regional organization such as EU in keeping their control over MNC which threaten the just and fair competition in Europe. Another purpose is to explain the increasing power of MNC and the political enforcement of the Antitrust regulation itself.

The content of the research can be useful and informative for the reader's future reference, who have some interest in learning about the corporate power and corporate governance, especially regarding the Antitrust law, and also about the power of MNC as a transnational actor.

G. Scope of Research

This research will explain about the enforcement of the antitrust regulation within the EU in the effort to regulate the MNC. Thus, the scope of research will be focusing on explaining the cases, which happen within the Europe boundary.

The timeline will range from 2010 to 2017. As already explained before, that the chronological order of the Google, Inc Antitrust case is stretching a while back. However, the research will not expand that far backward. The writer will set 2010-2017 as the period for this research, to keep the contemporary aspect of the issues.

H. Outline

This research will consist of 5 chapters. Each chapter will be divided into few sub-chapters in systematic order. The chapters will contain information as follows :

1. The first chapter contains the introduction of the thesis, which is consist of the background, research question, theoretical framework, methodology research, hypothesis, and outline.
2. The second chapter will describe the relationship between the MNCs and international investment regime. How the role of MNC has become more apparent since postwar, and the effort of investment regime as the means to stem the growing influence of it.
3. The third chapter contains the explanation about Antitrust regulation itself. How is the establishment of Antitrust regulation, what is its significance to the European Union integration process, and for what reason and purpose it exists?

4. The fourth chapter will explain about the Google, Inc Antitrust case. Why the EU decide to enforce it towards Google, Inc, and also how it happen and being settled.
5. The fifth chapter contains the conclusion of the research. It provides the answers for the research question, and conclude whether the earlier hypothesis is correct or not.