

CHAPTER V

CONCLUSION

In previous chapters, the writer tried to explain how the trans-border activity of multinational firm dominating the political economy. The international trade regime, made in the effort of trade liberalization has changed the pattern of the global economy. With the regime, states now can conduct their business practices more inclusively. It liberalizes much unnecessary trade barrier, but also prevent the possibility of abusive trade behavior, in which one party hold a dominant position against the other and then use it to conduct unfair business practices. It gave birth to international trade regime such as GATT/WTO. Their influence in global economy affects not only conventional trade actors like state but also the multinational firm.

The multinational firm's most striking feature lies in its ability to control the investment. That is why investment often associated with MNCs. As the pattern of the international economy changed, it gives a boost to the growth of MNCs. The limitation of trade barrier has enabled MNCs to operate more efficiently and effectively. MNCs adapt to the shift of economy in the way that benefits them the most. Nowadays, MNCs hold an essential role in the global economy. The emergence of MNCs makes the global economy more lively than ever. Unfortunately, as much as it promotes innovation and boosts economic growth, the behavior of MNC is less predictable due to its prime motivation for profit maximization, and the absence of international investment regime to control it. It makes MNC have a tendency for dominance, and thus hampering the competition and right functioning of the market. Aside from pluralism agreements between some states, the investment

power needs to be suppressed by each countries' competition regime.

It also applied for European Union. As a supranational actor, it is important for EU to scrutiny the global environment, while at the same time monitoring the member countries' action. The competition policy of EU started to discussed since the establishment of ECSC in 1951, as the result of Schuman Plan. From this community, the term 'competition' firstly introduces, while EU barely exists at that time. It is important to note that the process of competition policy development is supported - and supporting- by the EU enlargement process. The competition policy is a crucial part of the economic integration, and as competition policy steadily evolve, the number of countries who wants to become a part of EU increase. At the same time, the increase of member countries makes the competition more lively and thus, makes the competition policy's development much smoother. The competition policy is not the goal of EU, but a means to achieve it. It ensures the fair and competitive market, and also protect the consumer welfare. It plays a vital role in the establishment of Single Market which is promoting economic integration of EU's member countries.

As a part of competition policy, antitrust policy has a crucial role within the EU competition regime. The antitrust policy's foundation is laid down in Article 101 and 102 of TFEU, and its enforcement specified in Regulation (EC) No.1/2003. The antitrust regulation has going through a long, deliberate process to become the regulation as it is. It has been through several amendments, but without abandoning its core purpose: to protect consumer welfare and competition from abuse of dominant position. It is a part of competition regime that develops by EU enlargement, also with adapting to the change in global environment.

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.

The Google Antitrust Search case happened for seven years long, and it does not seem it will end in anytime soon. The case is prolonged due to the uncertainty in 'dominance' standard, to avoid over-enforcement or under-enforcement, and it also suspected that lobbying power might have some influence in this case. It relates to the few weaknesses of the competition regime.

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.

The antitrust case is a common thing to happen when MNC is playing an active part in the global economy. Just like explained before, due to the absence of international investment regime, it is less likely to control the 'unpredictable' MNCs' behavior, especially a super large corporation such as Google in this case. Google Antitrust Search case is related to the abuse of dominant position that happens on the internet, a virtual space in which people free to come and go. It open for everybody, but no one can claim ownership on it. The process to solve the case is more difficult because it happens within an internet-space, in which the regulation to govern it is still in infancy stage.

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 consumer welfare. 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.