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 advanced technology of information and communication, has changed the global economy into more open and outward. In this context, the increasing power of Multinational Corporations (MNCs) has shifted the pattern of the global economy, thus making the competition livelier than ever. However, the growing market power of MNC makes them tend to dominance. The absence of international investment regime to control the behavior of MNC become one of the primary concerns. It depends on the competition regime of each country to suppress the dominant 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 E.U. 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 the European Economic Community in 1958, and the process did not stop even after the foundation of the European Union. Within that integration process, competition policy considered a crucial part. This competition policy has a deep relationship with private firms or by government action. The disturbance in competition may weaken the integration process. To prevent such development, E.U. 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 E.U.'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 the European Commission (E.C.) 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 global level. The development of technology and communication at a global level led to a 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 are 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. However, 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 the global industry. With the advancement of I.T., the industry activity of many countries had 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 discussions 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 the 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 the 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 the 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 E.U. within the negotiation of Transatlantic Trade and Investment Partnership (TTIP) (Bonnitcha, Poulsen, & Waibel, 2017).

Despite that, there is a difference between treaty regime and the international trade regime. Unlike the international trade regime with WTO as its leading organization, the investment treaty did not have an 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 violates the agreement, it is hard to put a penalty on it, as there is no reliable institution to enforce that. The absence of an institution not only caused difficulty in dispute settlement but also makes it seem fragile and unstable. However, even so, these facts did not conclude that the investment cannot be governed in the future. It is just with the recent situation the 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 E.U. (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 fundamental 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 the E.U. market from any business practice that may restrict competition. However, in 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 (D.G. Competition) will enforce the law, while E.U. Courts provide the procedure request (Harrison & Bunker, 2011). Article 101 and 102 underlined what is allowed and prohibited in E.U. antitrust policy.

While the E.U. 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 Regulation 1/2003. It replaced Regulation 17/1962 and changed the way of E.U. in term of how to enforce the competition law. Regulation No. 1/2003 is the 'modernized' regulation that started to be useful since May 1, 2004 (Slaughter & May 2006). Regulation 1/2003 is the pivotal turn on E.U. 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 February 6, 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 the Commission in investigating infringement. The aim is to decentralize the investigative power to national authorities so that Commission can dedicate their entire focus on the 'hardcore' E.U. 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 was cooperating with competition authorities in few countries such as the U.S., 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 E.U. 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 U.K.'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 email, 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 of 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 November 30, 2010 (Case COMP/C-3/39.740 – Google versus Foundem and others) (Raff & Raff, 2017). On May 21, 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 competitor's motivation to invest in the original websites, for the internet users will mostly depend on more significant 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 becomes 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 May 21, 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 a 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 October 21, 2013, Google submitted its second proposal. However, 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 January 31, 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 a few minor details from the second one. Almunia later announced on February 5, 2014, that he had accepted Google's third proposals, and the implementation will be conducted without Market Test or further consultation. However, of course, the complainant's response will be considered as part of the procedure (Raff & Raff, 2017).

Due to the pressure and numerous feedbacks from the variety of parties, on September 23, 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 November 1, 2014, and her first job is finishing what her predecessor left off (Raff & Raff, 2017).

On April 15, 2015, the E.C. officially accused Google with abusement of its dominant position. They sent Google a Statement of Objection (SO) 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 the European Commission (2018) in Summary of Commission Decision of June 27, 2017:

"The fine imposed on Alphabet, Inc. and Google, Inc. for the abusive conduct is calculated based on the principles laid out in the 2006 Guidelines on the method of setting fines imposed under Article 23(2)(a) of Regulation (E.C.) 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 most significant antitrust fine E.U. 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 E.U. will give a further penalty up to 5 percent of the Alphabet's average daily global income per day (Chee, 2017).

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 E.U.'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 E.U. 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 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 challenging 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 the European Union, as Google operates under E.U. 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 steady 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 E.U. Both are neither superior nor inferior in comparison to each other.

The Reasons for Long Settlement

As multinational actors, Google adapts well to its surrounding. It does not defy the regulations directly, but it does deceptive 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 stable parameters on how far a business practice can be considered as 'dominance' (not to mention in the virtual landscape such as search engine). Significant market share does not necessarily mean 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, which obliged to comply. The diversity of antitrust focuses, preferences, and enforcement in the world makes it unavoidable for Google's business practice to be contemplated by multi enforcers, not only the European Commission. With the absence of general parameters for antitrust 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 large settlement is lobbying power. Wall Street Journal published that Johanna Shelton, one of the top lobbyists 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 spenders in E.U.

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 the 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 the E.U. 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 from FTC, which decided not to pursue the antitrust case in 2013, the E.U. 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 the Antitrust Regulation in this Case

As stated by McGrew (2005), that globalization often associated with liberalizations concept. The similarity between both concepts is that they are encouraging the process of global integration. He also defined economic globalization as the process of a single, global economy, and even the transformation process of organizations that regulate the world economy. One of the crucial leading actors in this modern world is MNC, and with the evolvement of technology and communication, the market competition becomes livelier than ever. Trade liberalization, the development of I.T., and the unpredictable actions of MNC are very reasons for a country to become more careful with their economic strategy and more aware with the 'hole' in their legislation. In this context, the E.U. tries to accommodate the global changes and adapting its regime to the change, while 'stylizing' it in the way that fits with the E.U.'s goal and methods.

Unfortunately, the E.U.'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). It is also 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 accurately on what practices and to what extent, it allowed to do without limiting the choices for consumer and stay in 'competitive' zone. It 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 E.U. is still inadequate in some aspects, but if we consider the achievement of E.U. 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, E.U. standing firm with its competition regime. The Google Antitrust Search case is one of the successful competition cases that E.U. tackled. Another successful case is the Microsoft antitrust case in 2001 or Intel antitrust case in 2009.

Eric K. Clemons, a Wharton professor of operations and information management, stated that E.U. 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 disturbs the consumer welfare. As Vestager claimed, that E.U. 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 the E.U.'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!, et cetera. It proved that the U.S. firms try to count on the E.U. 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 primary 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 E.U. offers Google time until September 28 to think about it. On September 27, 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 of promoting their products and services. The European Commission noted that they still considering 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 activities 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 about how the Google antitrust case against the E.U. has opened the door to more lawsuits. It may be useful news for competitors as now they can use Google in European civil court, and possibly other companies as well (Finley, 2017). The case settlement craved a new step for competition regime. The MNC's business practice may need to be more careful if they want to operate in the E.U.'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 the 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 continues despite fines already being imposed on Google. What E.U. seeks is the neutrality-based market environment in which the competition can function adequately without any discrimination. 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 E.U. 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 an example of the E.U.'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 lower result. Regular 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 essential to define the behavior of MNC as 'irregular' due to its nature to adapt and manipulate the regulation where they operate by their interest. Competitive regime plays 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, the E.U. 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 amounts of fines are not the primary 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 primary 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 E.U. 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, E.U. seeks long-term benefit by attempting to tackle future cases with a stronger competition regime. It is essential, 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 becomes outdated. However, it is essential to keep competitiveness in the market if one wants to protect the

correct 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 conducts a discrimination element toward other competing companies and thus limiting the consumer choice, that is why it considered as an antitrust infringement, especially 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 the E.U. does with Google in this case. It is still early to consider the competition regime of E.U. as perfect just because it successfully tackles several 'hardcore' antitrust case such as Microsoft antitrust case in 2001, Intel antitrust case in 2009, or Google Antitrust Search case. Google Antitrust Search case will still be on top of the Commission's desk for some time, due to its necessity to be continuously monitored. However, the effort of the E.U., in this case, deserves 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 the competition regime in the E.U.'s jurisdiction. It will become harder for MNC to operate as freely as they are before, now that E.U. takes a more aggressive stance against anti-monopolies, and this is not very good news for MNC in the future.

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